



# Town of York

186 York Street  
York, Maine 03909-1314

Town Manager/  
Selectmen  
(207)363-1000

Town Clerk/  
Tax Collector  
(207)363-1003

Finance/  
Treasurer  
(207)363-1004

Code Enforcement  
(207)363-1002

Planning  
(207)363-1007

Assessor  
(207)363-1005

Police Department  
(207)363-1031

Dispatch  
(207)363-2557

York Beach Fire  
Department  
(207)363-1014

York Village Fire  
Department  
(207)363-1015

Public Works  
(207)363-1011

Harbor Master  
(207)363-1000

Senior Center/  
General Assistance  
(207)363-1036

Parks and  
Recreation  
(207)363-1040

Fax  
(207)363-1009  
(207)363-1019

www.yorkmaine.org

## BOARD OF SELECTMEN'S MEETING AGENDA 6:00/7:00PM MONDAY, DECEMBER 8, 2014 YORK LIBRARY

### 6:00PM: Committee Interviews/Joint Meeting with Planning Board

#### Call to Order

#### Opening Ceremonies

#### A. Minutes

#### B. Chairman's Report

#### C. Manager's Report

#### D. Awards

#### E. Reports

1. Dave McCarthy - Cycle York
2. Natalie Gould of York Hospital – Rural Active Living Assessment Report
3. Denis Lachman – York Village Study Committee

F. Citizens' Forum – The Citizens' Forum is open to any member of the audience for comments on items listed on this meeting agenda. All comments should be respectful in tone and should be directed to the Chair. Comments should be brief and to the point. Questions that require extended answers or that cannot be readily answered will be referred to the Town Manager for follow-up. Anyone who wishes to submit a written request for future agenda items can do so on the form available at this meeting or may obtain the form through the Town Manager's Office.

#### G. Approval of Warrant #23

#### H. Public Hearings

1. New Business License: Velveteen Habit
2. General Assistance Ordinance
3. York River Wild and Scenic Program

**I. Endorsements**

Business Licenses:

1. Anthony Graziano DBA: Anthony's Food Shop, Inc. (Food Service);  
Located at 679 US Route One
2. Boardman-Ellis VFW Post 6977 (Food Service, Liquor, Special  
Amusement, Coin-Operated Amusement); Located at 75 Cape  
Neddick Road
3. Benjamin Goldman DBA: The Velveteen Habit (Food Service, Liquor);  
Located at 37 Ogunquit Road
4. Viewpoint Corporation DBA: Viewpoint Hotel (Innkeeper); Located  
at 229 Nubble Road
5. York Elks Lodge #2788 (Food Service, Liquor, Special Amusement,  
Coin-Operated Amusement); Located at 1704 US Route One

**J. Old Business**

**K. New Business**

1. Discussion Regarding a York Village Sign
2. Discussion and Possible Action to Adopt an Updated General  
Assistance Ordinance
3. Discussion Regarding Anticipated Ordinance and Comprehensive  
Plan Amendments Heading Towards the May 2015 Referendum
4. Discussion Regarding the York River Wild and Scenic Rivers Study  
and Local Considerations
5. Discussion and Possible Action on Entering into Contract  
Negotiations for a New Town Manager
6. Planning Board Appointment
7. Board of Appeals Appointment

**L. Other Business**

**M. Citizens' Forum**

**Adjourn**

David McCarthy  
12 Autumn Brook Lane  
Cape Neddick, Maine 03902

December 8, 2014

Board of Selectmen  
186 Main Street  
York, Maine 03909

Subject: Request to Establish a Town Chartered Bicycle and Pedestrian Committee

Dear Madam Chair and Selectmen,

This letter documents and elaborates on my request during the December 8<sup>th</sup> Selectmen's Meeting that the Board establish a Bicycle and Pedestrian Committee for the Town of York.

Section 2.4.6 of the Town of York Comprehensive Plan states, in part:

"The value of a walkable and bikeable community for health, environmental benefit, added recreational opportunities, and alternative transportation cannot be underestimated. The Town of York recognizes the many economic, social, health and recreational benefits that will result in creating safe spaces to walk and bicycle, contributing towards networks that link our homes, downtowns, workplaces, parks, and beaches."

The Comp Plan then specifies the following action be taken to achieve the benefits of safe and accessible bicycling and walking in the Town:

"A Bicycle-Pedestrian Committee should be formed to produce a sidewalk/pedestrian master plan, including an inventory of existing conditions, key current or potential routes, on-street and off-street possibilities, critical areas for safety improvements, potential costs as well as funding sources, and prioritized recommendations. The potential projects and improvements to emerge from a master plan will range from physical redesign of roads and intersections, to much less cost prohibitive measures such as signage and striping of roads within existing roadway dimensions... Recommendations ... should be incorporated into the larger master plan, and incorporated into an illustrative map. Efforts should be made early to reach out to stakeholders – cyclists, walkers, and students, to insure maximum community input. The Committee should also work in concert with the Community Development Department and Department of Public Works."

If the Board supports establishment of the Bicycle and Pedestrian Committee, I offer my services to work with the Community Development Department to refine the attached draft Charter and to solicit community input and volunteers to serve on the Committee. The charter and nominees would be brought to the Board for approval.

I look forward to working with the Board, the community, and Town administrators in continuing to improve safety and accessibility for pedestrians and cyclists in our community.

Respectfully,

David McCarthy  
363-2791  
[bikepedyork@gmail.com](mailto:bikepedyork@gmail.com)

Attachment: Draft Charter for town of York Bicycle and pedestrian Committee

**Stakeholders:**

York Community walkers, cyclists, and motorists  
Board of Selectmen  
Planning Board  
Chamber of Commerce  
Rotary Club  
Healthy Maine Partners  
Village Study Committee

**Internal Resources/Key Players:**

Community Development Department/Town Planner/GIS Manager  
Police Department  
Public Works Department  
Parks and Recreation Department  
York Public Schools  
York Housing Authority

**External Resources/Key Players:**

York Land Trust  
Steedman Woods Trust  
First Parish Church  
Agamenticus Conservation Region  
Mount A to the Sea  
Kittery Area Comprehensive Transportation Area (KACTS)  
Bicycle Coalition of Maine  
Southern Maine Planning and Development Commission  
Maine Department of Transportation

**Communications Options:**

York Weekly/Portsmouth Herald  
York Community Dialog  
Town Web site  
Local Access TV - Channel 3

*Additional groups and individuals will be identified through the community involvement process.*

## **Board of Selectmen Standing Committee Charter for Town of York Bicycle and Pedestrian Committee**

**Background:** This Charter establishes the Town of York Bicycle and Pedestrian Committee as called for by Section 2.4.6 of the Town of York Comprehensive Plan. The value of a walkable and bikeable community for health, environmental benefit, added recreational opportunities, and alternative transportation cannot be underestimated. The Town of York recognizes the many economic, social, health and recreational benefits that will result in creating safe spaces to walk and bicycle, contributing towards networks that link our homes, downtowns, workplaces, parks, and beaches.

**Bike/Ped Committee Mission:** Develop a Master Plan for the Town of York to achieve the benefits of safe and accessible bicycling and walking in the Town. The Committee will reach out to stakeholders – cyclists, walkers, and students, business groups, Town Staff, Land Trusts and others to insure maximum community input to the Master Plan.

The Plan will include the following:

1. An inventory of existing conditions.
2. Key current or potential routes, on-street and off-street possibilities and critical areas for safety improvements.
3. Analyses of potential costs as well as funding sources for improvements.
4. Prioritized recommendations and timelines for implementing recommendations.
5. Illustrative maps to document existing conditions and recommended improvements.
6. Recommendations to the Selectmen, Planning Board, or other Town entities to establish or amend plans, policies or procedures to improve safety and accessibility for walkers and cyclists.

Once the Master Plan is approved by the Board of Selectmen, the Committee will work with Town Staff to implement the Plan and assure it is updated as needed.

**Membership:** The committee shall be comprised of five at-large voting members appointed by the Board of Selectmen. Appointments shall be for three year terms. Initial appointments shall have staggered terms such that not more than two appointments expire in any given year. The Board of Selectmen and the Planning Board may each designate one of their members to be ex-officio members of the Committee. For purposes of voting, a quorum shall consist of three members voting and present. Decisions shall be by majority vote.

**Support and Liaison:** The Town Planner will be the primary point of contact with the Town Staff and the Planning Board. Due to the Committee's mission, interfaces will occur with other Town Offices and Departments, especially the Public Works Department, Police Department, the School Department, and Parks and Recreation (including the Senior Center).

The Committee is encouraged to work with bike and pedestrian groups throughout the region to identify and incorporate available lessons learned and best practices into their efforts.

**Meetings and Minutes:** All meetings shall be public meetings. A notice of each meeting shall be posted publicly in advance of each meeting. Meetings will be conducted in accordance with Roberts Rules of Order. Minutes will be taken at each meeting and provided to the Town Clerk for archiving when finalized.

**Modification of this Charter:** Any time after its formation, the Committee may propose charter modifications believed necessary to enhance their ability to achieve the mission. The Board of Selectmen may accept, modify, or reject proposed changes.

October 24, 2014

Town of York Board of Selectmen  
186 York St  
York, ME 03909



Dear Members of the Board,

I am writing today to request some time at an upcoming Board of Selectmen's meeting. This summer, Choose To Be Healthy, the local Healthy Maine Partnership, staff worked with several Town of York community members and municipal officials to conduct the Rural Active Living Assessment (RALA). Together we collected data, assembled information and documented a final report. The final report reflects recommendations by the Town Of York municipal team. I would like to present to you the data that we found.

As a Healthy Maine Partnership, we are being asked by the State of Maine CDC to use the RALA Tools to assess our community's physical, programmatic and policy environments as they relate to opportunities for physical activity. The RALA Tools were designed by researchers at the University of Southern Maine (USM) to help collect data on physical environment features and amenities, town characteristics, community programs, and policies that could potentially influence levels of physical activity among residents in rural communities. The RALA also provides a structure for assessing the programs and policies that might help to overcome barriers to physical activity.

This tool can assess the "friendliness" of the community for walking, biking, swimming, hiking, etc. It also provides a structure for assessing the programs and policies that might help to overcome an "unfriendly" environment.

**What is involved?**

The RALA tools include three separate components:

- 1) Town-Wide (18 town characteristic questions and inventory of 15 recreational amenities)
- 2) Program and Policy (20 questions)
- 3) Street Segment Assessments (28 questions)

These three assessment instruments are designed to be used together and provide a comprehensive measure addressing many of the unique factors believed to be important to active living in rural communities.

**What to do with the information after completing the assessment?**

- 1) Identify opportunities to improve safety and access to physical activity
- 2) Use information as data for applications for funding opportunities

Please let me know at which meeting would be best for me to present. I look forward to sharing the RALA report with you. Thank you for your time.

Sincerely,

*Natalie Gould*

Community Health Specialist  
207-351-2662

**York Rural Active Living Assessment  
Observations & Recommendations  
September 2014**

**Summary**

York is the 16<sup>th</sup> largest town in Maine with a population of 12,529 (US Census, 2010) with several smaller villages. For the purpose of this assessment York Village (at the intersection of York St and Long Sands Road) was used as the Town Center. York has a population density of 217/sq mile. York has many opportunities for recreation from Mount Agamenticus to Long Sands Beach. York also has a Village Study Committee that is working on all types of transportation improvements to the York Village area. CycleYork is a committee in town that is working to make York a bicycle friendly town and is also working to become an official Bike/Ped Committee. York has many assets and with a few modifications, walkability and bikeability of the town could be greatly improved.

**Town Wide Assessment**

- School Locations
  - All schools are located within 1 mile of town center
    - 15/15 pts
- Hiking or Walking Trails
  - Mt. Agamenticus & York Land Trust areas – Excellent markings and well maintained, but outside of town center
  - Several small trails in town but not well marked, some not well maintained
    - 14/20 pts
- Parks & Playgrounds
  - Excellent condition and in several locations around town
    - 24/25 pts
- Water Activities
  - Public swimming beaches & river access
  - No nearby public pool (closest pool – Portsmouth, NH)
    - 6/10 pts
- Recreational Facilities
  - Several types of recreational facilities (i.e. parks, playing fields, skate park, ice skating, and private fitness facilities)
  - No town recreational center. Senior Center only – small building, small renovations could improve center. A Community Center would be a strong asset to the town.
    - 20/30 pts
- TOTAL: 79/100 pts

**Town & School Policy**

- Town Policy
  - Town regularly clears snow on sidewalks
  - Recommend to implement policy to require bikeways or pedestrian walkways in new public infrastructure projects
    - 3/10 pts
- Town Programs
  - Town Recreation Department provides programs for all ages
  - Could improve by offering organized transportation to recreational programs
    - 22/30 pts

- School Policies
  - Schools allow public access to their recreational facilities after school hours
  - Public schools offer a late-bus option for children that stay after school for sponsored activities.
    - 30/30 pts
- School Programs
  - There are “Walk to School” programs that encourage children to walk or bike to school.
  - Schools participate in National “Safe Routes to School” program.
  - Schools offer other sponsored physical activity initiatives for students in addition to gym/phys-ed classes.
    - 30/30 pts
- TOTAL: 85/100 pts

### Street Segments

- York Village (1-Village)
  - Sidewalks discontinuous, recommend to connect, widen and improve sidewalks in this area (especially needed York St from Monument to Bagel Basket)
  - Pedestrian signs are temporary signs only, recommend permanent signage
  - Crosswalks are basic design, recommend a zebra or ladder design
  - Bike lanes and “3ft law” signage would improve bikeability
- York High School (2-YHS)
  - Sidewalk should continue up Robert Stevens Dr from both Long Sands Road and Webber Road
  - Trail to Ridge Road – not well maintained or marked
- Short Sands Beach (3-Short Sands)
  - Very walkable
  - Traffic volume and no bike lanes make biking difficult – could add “Sharrow” markings on Ocean Ave. (Sharrow: an arrow that reminds cars that bicyclists also use the road and cars should share the road with cyclists. See image)
- Shore Road at Cape Neddick Lobster Pound (4-Shore Road)
  - Limited public lighting, adding lighting would improve walkability
  - Disconnect of sidewalk to Main St, but understand that plans have been made to connect the sidewalks in the spring of 2015.
  - Add “Share the Road” and/or “3ft law” signage to improve bikeability
- Coastal Ridge Elementary School (5-CRES)
  - Walking path to 1<sup>st</sup> Parish Church not well marked
  - Walkway to wetland viewing platform not visible or well marked
- Village Elementary School (6-VES)
  - Sidewalks on both sides of street would improve walkability
- Raydon Road at Donica Road (7-Raydon Road)
  - Sidewalks could connect residential neighborhoods to York St and Village
  - Trail to 1<sup>st</sup> Parish Church not well marked
- US Rt. 1 at Hannaford Dr (8-Hannafords)
  - Sidewalks intermittent, walkability could improve with more connectivity
  - Crosswalks low visibility, could be improved with ladder or zebra design
  - Improve bikeability by creating a bike path
    - Connect Rt. 1 bike path to York St bike path
    - Connect to Rt. 91 so bike path continuous from Village to Rt. 91



- Scotland Bridge Road at York River (9-Scotland Bridge)
  - Work with property owners to improve parking and boat ramp area
  - When road improvement projects arise, include plans for paved shoulders (10' lanes, 4'-5' shoulders/bike lanes)
- York Middle School (10-Organug)
  - Sidewalks on both sides of street from YMS to York St (or continuously on one side) would improve walkability. Currently, the sidewalk begins on east side of the road then pedestrians use a crosswalk to sidewalk on the west side of the road and again cross back to the east side to get to YMS.
  - When road improvement projects arise, include plans for paved shoulders (10' lanes, 4'-5' shoulders/bike lanes)
- Other Considerations
  - Woodbridge Road – High pedestrian area, could use a crosswalk to connect walking path from the library to the sidewalk on Woodbridge Road
  - Addition of “3ft law” signage on popular bicycle routes
  - Create formal bicycle routes with “Bike Route” signage
    - Websites such as Strava ([strava.com](http://strava.com)) can give information on popular bicycle routes which could be used to delineate formal Bike Routes.

#### **Members of the York RALA Team**

*Mike Sullivan*, York Parks & Recreation Director

*Sarah Francke*, York Parks & Recreation Assistant Director

*Ron McAllister*, York Village Study Committee, York Parks & Recreation Board, Cycle York

*Dean Lessard*, York Public Works Director

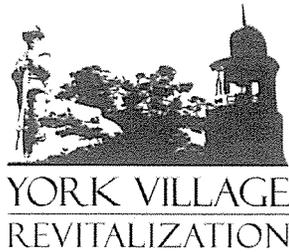
*Steve Burns*, York Community Development Director, Town Manager

*Dave McCarthy*, Cycle York

*Mike Modern*, Cycle York, York Parks & Recreation Board, York Conservation Commission

*Sue Patterson*, Choose To Be Healthy

*Natalie Gould*, Choose To Be Healthy



Village Study  
Committee

Ron McAllister, Chair  
Stu Dawson  
Antonia DeSoto  
Gloria Gustafson  
Christine Hartwell  
Joel Lefever  
Dean Lessard  
Jody Merrill  
Dylan Smith  
Peter Smith  
Scott Stevens  
Lew Stowe  
Robert Palmer  
Stephen Burns

**TO:** Members of the Town of York Board of Selectmen  
**FROM:** Ron McAllister, Chair of the York Village Study Committee  
**VIA:** Steve Burns, Interim Town Manager  
**DATE:** 4 December 2014  
**RE:** Village Master Plan Phase I: Progress Report #2

This memorandum provides an update on the activities of the Village Study Committee since our last progress report (September 18). This report will be supplemented by a presentation to be made by TDRC's principals, Denis Lachman and Regina Leonard during next week's Board meeting (December 8). Below is a summary of activities for the period from September through November.

- **Earlier Revitalization Efforts:** Thanks to resident David Chase, the VSC has been made aware of a series of previous efforts going back to 1902 to landscape, beautify and otherwise revitalize York Village. A plan for traffic and parking improvements was put forward in 1946 by York's Town Planner, Arthur Comey. A 1964-67 effort focused primarily on signage and facade improvements while a 1974-77 Village townscape project generated considerable citizen participation but no notable alterations to the Village. These various efforts to improve York Village spanning more than a century show us that change does not come easily but they also show us that the task with which the Board has charged us is more important than ever. In his 1946 plan, Arthur Comey says: "York Village was once convenient, charming if not beautiful, and safe. Today (1946) it is inconvenient, ugly and to a degree dangerous." Many people would say this assessment remains accurate in 2014
- **Public Event #1:** On October 4, the VSC held its first community design workshop in connection with the TDRC Master Plan. Almost 60 people came out, met in small groups and gave us feedback on their visions for York Village. They looked at points of arrival and destinations they frequent when in the Village, on pedestrian connectivity options, on natural features and open spaces, on special events they either enjoy or would like to see, and on ideas about models of successful revitalization. Data from the six small groups are factoring into the developing Master Plan.

- **Connections:** We continue to work with other committees in Town to enhance cooperation. We remain in contact with the Planning Board, the Capital Projects Planning Committee, the Energy Efficiency Steering Committee and others to be sure that all appropriate groups are informed about the project and have an opportunity for input.
- **Outreach:** In addition to special events, we continue to reach out to the community with an ongoing series of articles in *The York Weekly*. The VSC website contains copies of presentations, reports, and meeting minutes to keep the community up to date as things develop. In addition, we maintain a *Facebook* page and a growing email list for direct contact with community members. See <http://www.yorkvillage.org> and <http://www.facebook.com/yorkvillage> to connect with these sites.
- **Next Steps:** A third public design workshop will be held in the first half of January 2015. We expect to come before the BOS again shortly after that to present the final draft Master Plan. While continuing to advance the Master Plan process, we are also looking beyond it. We remind the Board that the Master Plan is not the end of the Village revitalization process. Once the Plan is completed (and assuming it is approved by the Board), we will be requesting additional funding for the Schematic Design phase and then the Construction Documents phase.

The committee has been greatly encouraged by the enthusiasm and the momentum which the master planning process has generated so far. We like to think that we will be ready to present the Master Plan to the Town's voters in May 2015. This will require prior consent from various boards and committees in Town. Additionally, we are trying to work within the new capital planning process schedule. This is presenting its own challenges because we want our estimates of the cost of achieving the vision of the Master Plan to be realistic and achievable. We remain grateful for the Board's support. Thank you.

cc: Village Study Committee  
 Denis Lachman, TDRC



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## **PUBLIC HEARING NOTICE**

**December 8, 2014**

**7:00PM**

**York Public Library**

The Selectmen will hold a Public Hearing on December 8, 2014 regarding a New Business License Application for the following:

- Benjamin Goldman DBA The Velveteen Habit; Located at 37 Ogunquit Road (Food Service, Liquor)



**Notice of Public Hearing  
Board of Selectmen  
Monday, December 8, 2014  
7:00 PM  
York Public Library**

The York Board of Selectmen will conduct a Public Hearing regarding a proposed ordinance amendment to the General Assistance Ordinance.

Printed copies of the text of this amendment are available at Town Clerk's office in Town Hall, and digital copies are available on the Town's Web page ([www.yorkmaine.org](http://www.yorkmaine.org)).



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## **PUBLIC HEARING NOTICE**

**December 8, 2014**

**7:00PM**

**York Public Library**

The Selectmen will hold a Public Hearing on December 8, 2014 regarding the **York River Wild and Scenic Program**. Any input is welcome.



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> December 5, 2014	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> December 8, 2014	
<b>Regular</b> <input checked="" type="checkbox"/> <b>Work Session</b> <input type="checkbox"/>	
<b>Subject:</b> Business License Applications (5)	

**TO:** BOARD OF SELECTMEN

**FROM:** Melissa M. Avery; Assistant to the Town Manager

**RECOMMENDATION:**

**PROPOSED MOTION:** I move to approve the following licenses:

1. Anthony Graziano DBA: Anthony's Food Shop, Inc. (Food Service); Located at 679 US Route One
2. Boardman-Ellis VFW Post 6977 (Food Service, Liquor, Special Amusement, Coin-Operated Amusement); Located at 75 Cape Neddick Road
3. Benjamin Goldman DBA: The Velveteen Habit (Food Service, Liquor); Located at 37 Ogunquit Road
4. Viewpoint Corporation DBA: Viewpoint Hotel (Innkeeper); Located at 229 Nubble Road
5. York Elks Lodge #2788 (Food Service, Liquor, Special Amusement, Coin-Operated Amusement); Located at 1704 US Route One

*... subject to taxes, fees and inspections being current and compliant with the usual noise stipulations*

**Discussion:** All appropriate Departments have given approval; See "Department Approvals" on page 2 of each Application.

**FISCAL IMPACT:** N/A

**DEPARTMENT LINE ITEM ACCOUNT:** N/A

**BALANCE IN LINE ITEM IF APPROVED:** N/A

Prepared By: Melinda Strong

Reviewed By: [Signature]

THE TOWN OF

# YORK, MAINE

186 York Street, York, Maine 03909

## BUSINESS LICENSE APPLICATION

NOTE: Business Licenses are not transferable to another person, business or location.

Business Name: Anthony's Food Shop Inc

Street Address: 679 US Rt 1 York, ME

Business Owner: Anthony Goxiano Business Manager: Mark Goxiano

Mailing Address: 66 STATE ST Mailing Address: SAME AS ABOVE  
PORTSMOUTH, NH 03801

Phone Number: \_\_\_\_\_ Phone Number: 207 363 6322 x100

E-mail Address: AGOXI@BSC2@AOL.COM E-mail Address: mark@anthony'sfoodshop.com

Please indicate who is to be the Primary Contact with the Town:  OWNER or  MANAGER

Is the Business Owner same as the prior year?  YES  NO

Please indicate which Licenses or Local Approvals you seek:

### Lodging:

\_\_\_ Bed and Breakfast License (C/F)

\_\_\_ Innkeeper License (C/F)

Number of Rooms: \_\_\_

### Food and Beverage:

Food Service License (C/F)

\_\_\_ Liquor License (F/P)

\_\_\_ Bottle Club License (F/P)

Number of Seats: 24

### Entertainment:

\_\_\_ Special Amusement License (F/P)

\_\_\_ Dance Hall License (F/P)

\_\_\_ Bowling Alley License (F)

\_\_\_ Coin-Operated Amusement License (P)

\_\_\_ Bingo, Beano and Games of Chance

### Miscellaneous:

\_\_\_ Transient Seller's License

\_\_\_ Flea Market License

\_\_\_ Junkyard, Auto Graveyard/Recycling License

Other: \_\_\_\_\_

C - Code Enforcement Inspection Required F - Fire Department Inspection Required P - Police Department Inspection Required

Code Enforcement: (207) 363-1002

Police Department: (207) 363-1031

Village Fire Department: (207) 363-1015

Beach Fire Department: (207) 363-1014

FEES: Each application will incur a \$60 fee, plus \$30 for each license after the first. All NEW applications will have an additional \$50 fee, and all license amendments will have a \$25 fee. All fees are to be paid at time of submittal and shall be non-refundable. Cash or Check only; Please make check payable to Town of York.

Provide the following information about any relevant State licenses:

STATE LICENSE INFORMATION			
ID Number(s):	1-864		
Expiration Date(s):	1/31/2015		
Classification(s):	Food Estab.		

Please read the following and sign to complete your application:

I understand that a license is required before operating or conducting any business or activity governed by the Town's Business Licensing Ordinance and that ongoing compliance with the provisions of the Town's Business Licensing Ordinance and other applicable Town codes is required throughout the entire license period.

I understand that this Business License Application must be filled out completely, all fees must be paid, and all necessary department inspections must be completed and passed before the license(s) will be considered by the Board of Selectmen.

Business Owner: [Signature]  
Signature

Have you ever been convicted of a Felony? YES / NO

Business Manager: [Signature]  
Signature

Have you ever been convicted of a Felony? YES / NO

(If either person has a Felony conviction, please attach an explanation of the circumstances)

**FOR OFFICE USE ONLY**

FEES	Amount	Map - Lot: <u>0091 - 0008-C</u>
Application and First License (\$60)	<u>60.00</u>	Processed By: <u>mmavery</u>
Subsequent Licenses (\$30 each)	<u>-</u>	Received Date: <u>11/24/2014</u>
New License Fee (\$50)	<u>-</u>	Amount Received: \$ <u>60.00</u>
License Amendment (\$25)	<u>-</u>	Check # <u>33170</u> or Cash <input type="checkbox"/>
Other: _____	<u>-</u>	LICENSE #: _____ - _____
TOTAL DUE	\$ <u>60.00</u>	

Department Approvals	Date of Approval	Special Conditions (Attached if Necessary)
Code Enforcement	<u>12/4/2014 Newell</u>	YES <u>NO</u>
Fire	<u>11/24/2014 D. Apgar</u>	YES <u>NO</u>
Police	<u>✓ N/A</u>	YES NO
Tax Collector	<u>11/25/2014 M. Szeriawski</u>	YES <u>NO</u>

Board of Selectmen	_____	_____	YES NO
	Town Manager for the Board of Selectmen	Date	

THE TOWN OF  
YORK, MAINE

186 York Street, York, Maine 03909

**BUSINESS LICENSE APPLICATION**

NOTE: Business Licenses are not transferable to another person, business or location.

Business Name: BOARDMAN-ELLI'S VFW Post 6997  
Street Address: 75 Cape Neddick Rd, York, ME 03909  
Business Owner: SAME Business Manager: Joseph Ford  
Mailing Address: P.O. Box 201 York Beach, ME 03910 Mailing Address: P.O. Box 201 York Beach, ME 03910  
Phone Number: 207-363-9827 Phone Number: 207-363-9827  
E-mail Address: VFW6997@YAHOO.COM E-mail Address: VFW6977@YAHOO.COM

Please indicate who is to be the Primary Contact with the Town:  OWNER or  MANAGER

Is the Business Owner same as the prior year?  YES  NO

Please indicate which Licenses or Local Approvals you seek:

**Lodging:**

Bed and Breakfast License (C/F)  
 Innkeeper License (C/F)  
Number of Rooms: \_\_\_\_\_

**Entertainment:**

Special Amusement License (F/P)  
 Dance Hall License (F/P)  
 Bowling Alley License (F)  
 Coin-Operated Amusement License (P)  
 Bingo, Beano and Games of Chance

**Food and Beverage:**

Food Service License (C/F)  
 Liquor License (F/P)  
 Bottle Club License (F/P)  
Number of Seats: 150

**Miscellaneous:**

Transient Seller's License  
 Flea Market License  
 Junkyard, Auto Graveyard/Recycling License  
Other: \_\_\_\_\_

C – Code Enforcement Inspection Required F – Fire Department Inspection Required P – Police Department Inspection Required

Code Enforcement: (207) 363-1002

Police Department: (207) 363-1031

Village Fire Department: (207) 363-1015

Beach Fire Department: (207) 363-1014

FEES: Each application will incur a \$60 fee, plus \$30 for each license after the first. All NEW applications will have an additional \$50 fee, and all license amendments will have a \$25 fee. All fees are to be paid at time of submittal and shall be non-refundable. Cash or Check only; Please make check payable to Town of York.

Provide the following information about any relevant State licenses:

STATE LICENSE INFORMATION				
ID Number(s):	5027	3098	0100318	11178
Expiration Date(s):	12/28/14	12/31/14	12/31/14	10/31/14
Classification(s):	Eating Place	Liquor License	Resale Certificate Prep Food	Dancing purposes

Please read the following and sign to complete your application:

I understand that a license is required before operating or conducting any business or activity governed by the Town's Business Licensing Ordinance and that ongoing compliance with the provisions of the Town's Business Licensing Ordinance and other applicable Town codes is required throughout the entire license period.

I understand that this Business License Application must be filled out completely, all fees must be paid, and all necessary department inspections must be completed and passed before the license(s) will be considered by the Board of Selectmen.

Business Owner: \_\_\_\_\_  
Signature

Have you ever been convicted of a Felony? YES / NO

Business Manager: Joseph Ford  
Signature

Have you ever been convicted of a Felony? YES / NO

(If either person has a Felony conviction, please attach an explanation of the circumstances)

**FOR OFFICE USE ONLY**

FEES		Amount	Map - Lot: <u>0019 - 0005</u>	
Application and First License (\$60)		<u>60.-</u>	Processed By: <u>mmavery</u>	
Subsequent Licenses (\$30 each)		<u>90.-</u>	Received Date: <u>10/6/2014</u>	
New License Fee (\$50)		<u>-</u>	Amount Received: \$ <u>150.00</u>	
License Amendment (\$25)		<u>-</u>	Check # <u>5293</u> or Cash <input type="checkbox"/>	
Other: _____		<u>-</u>	LICENSE #: _____ - _____	
TOTAL DUE		\$ <u>150.00</u>		
Department Approvals		Date of Approval		Special Conditions (Attached if Necessary)
Code Enforcement	<u>- N/A</u>	<u>10/16/2014 L. Hinz</u>		YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Fire	<u>- N/A</u>	<u>11/4/2014 Bridges</u>		YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Police	<u>- N/A</u>	<u>10/8/2014 Davis</u>		YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Tax Collector	<u>- N/A</u>	<u>10/7/2014 Szeniewski</u>		YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Board of Selectmen _____ Town Manager for the Board of Selectmen			_____ Date	YES NO

THE TOWN OF  
**YORK, MAINE**

186 York Street, York, Maine 03909

**BUSINESS LICENSE APPLICATION**

*NOTE: Business Licenses are not transferable to another person, business or location.*

Business Name: The Velveteen Habit

Street Address: 37 Ogunquit Road, Cape Neddick Maine 03902

Business Owner: Benjamin Goldman Business Manager: Brent Bushong II

Mailing Address: 37 Ogunquit Road Mailing Address: 37 Ogunquit Road  
Cape Neddick ME 03902 Cape Neddick ME 03902

Phone Number: 508508-208-6864 Phone Number: 2072169884

E-mail Address: ben@thevelveteenhabit.com E-mail Address: brent@thevelveteenhabit.com

Please indicate who is to be the Primary Contact with the Town:  OWNER or  MANAGER

Is the Business Owner same as the prior year?  YES  NO

*Please indicate which Licenses or Local Approvals you seek:*

**Lodging:**

Bed and Breakfast License (C/F)

Innkeeper License (C/F)

Number of Rooms: \_\_\_\_\_

**Food and Beverage:**

Food Service License (C/F)

Liquor License (F/P)

Bottle Club License (F/P)

Number of Seats: \_\_\_\_\_

**Entertainment:**

Special Amusement License (F/P)

Dance Hall License (F/P)

Bowling Alley License (F)

Coin-Operated Amusement License (P)

Bingo, Beano and Games of Chance

**Miscellaneous:**

Transient Seller's License

Flea Market License

Junkyard, Auto Graveyard/Recycling License

Other: \_\_\_\_\_

*C – Code Enforcement Inspection Required F – Fire Department Inspection Required P – Police Department Inspection Required*

Code Enforcement: (207) 363-1002

Police Department: (207) 363-1031

Village Fire Department: (207) 363-1015

Beach Fire Department: (207) 363-1014

**FEES:** Each application will incur a \$60 fee, plus \$30 for each license after the first. All NEW applications will have an additional \$50 fee, and all license amendments will have a \$25 fee. All fees are to be paid at time of submittal and shall be non-refundable. Cash or Check only; Please make check payable to Town of York.

Provide the following information about any relevant State licenses:

STATE LICENSE INFORMATION			
ID Number(s):			
Expiration Date(s):			
Classification(s):			

Please read the following and sign to complete your application:

I understand that a license is required before operating or conducting any business or activity governed by the Town's Business Licensing Ordinance and that ongoing compliance with the provisions of the Town's Business Licensing Ordinance and other applicable Town codes is required throughout the entire license period.

I understand that this Business License Application must be filled out completely, all fees must be paid, and all necessary department inspections must be completed and passed before the license(s) will be considered by the Board of Selectmen.

Business Owner: [Signature] Have you ever been convicted of a Felony? YES / NO  
*Signature*

Business Manager: [Signature] Have you ever been convicted of a Felony? YES / NO  
*Signature*  
 (If either person has a Felony conviction, please attach an explanation of the circumstances)

**FOR OFFICE USE ONLY**

FEES	Amount	Map - Lot: <u>0099 - 0047-H</u>
Application and First License (\$60)	<u>60</u>	Processed By: <u>m mallery</u>
Subsequent Licenses (\$30 each)	<u>30</u>	Received Date: <u>11/10/2014</u>
New License Fee (\$50)	<u>50</u>	Amount Received: \$ <u>140.00</u>
License Amendment (\$25)	<u>15</u>	Check # <u>041</u> or Cash <input type="checkbox"/>
Other: _____	<u>15</u>	LICENSE #: _____ - _____
<b>TOTAL DUE</b>	<b>\$ <u>140.00</u></b>	

Department Approvals	Date of Approval	Special Conditions (Attached if Necessary)
Code Enforcement <u>— N/A</u>	<u>11/9/2014</u> <u>K. Newell</u>	YES <u>NO</u>
Fire <u>— N/A</u>	<u>12/4/2014</u> <u>D. Bridges</u>	YES <u>NO</u>
Police <u>— N/A</u>	<u>11/24/2014</u> <u>O. Davis</u>	YES <u>NO</u>
Tax Collector <u>✓ N/A</u>		YES    NO

**Board of Selectmen** \_\_\_\_\_    \_\_\_\_\_    YES    NO  
*Town Manager for the Board of Selectmen*    *Date*

THE TOWN OF

# YORK, MAINE

186 York Street, York, Maine 03909

## BUSINESS LICENSE APPLICATION

*NOTE: Business Licenses are not transferable to another person, business or location.*

Business Name: View point Hotel

Street Address: 229 Nubble Rd, York, Me, 03909

Business Owner: Michael McGrath Viewpoint Corporation Business Manager: Elaine Atteroyd

Mailing Address: 229 Nubble Rd York, Me. 03909 Mailing Address: 229 Nubble Rd York, Me. 03909

Phone Number: 207-361-3261 Phone Number: 207-361-3261

E-mail Address: michael\_e\_mcgrath@msn.com E-mail Address: elaine@viewpointhotel.com

Please indicate who is to be the Primary Contact with the Town:  OWNER or  MANAGER

Is the Business Owner same as the prior year?  YES  NO

*Please indicate which Licenses or Local Approvals you seek:*

### Lodging:

Bed and Breakfast License (C/F)  
 Innkeeper License (C/F)  
Number of Rooms: 9

### Food and Beverage:

Food Service License (C/F)  
 Liquor License (F/P)  
 Bottle Club License (F/P)  
Number of Seats: \_\_\_\_\_

### Entertainment:

Special Amusement License (F/P)  
 Dance Hall License (F/P)  
 Bowling Alley License (F)  
 Coin-Operated Amusement License (P)  
 Bingo, Beano and Games of Chance

### Miscellaneous:

Transient Seller's License  
 Flea Market License  
 Junkyard, Auto Graveyard/Recycling License  
 Other: \_\_\_\_\_

C – Code Enforcement Inspection Required F – Fire Department Inspection Required P – Police Department Inspection Required

Code Enforcement: (207) 363-1002

Police Department: (207) 363-1031

Village Fire Department: (207) 363-1015

Beach Fire Department: (207) 363-1014

FEES: Each application will incur a \$60 fee, plus \$30 for each license after the first. All NEW applications will have an additional \$50 fee, and all license amendments will have a \$25 fee. All fees are to be paid at time of submittal and shall be non-refundable. Cash or Check only; Please make check payable to Town of York.

Provide the following information about any relevant State licenses:

STATE LICENSE INFORMATION			
ID Number(s):	4975		
Expiration Date(s):	5/8/2015		
Classification(s):	Lodging 4-15 Rooms		

Please read the following and sign to complete your application:

I understand that a license is required before operating or conducting any business or activity governed by the Town's Business Licensing Ordinance and that ongoing compliance with the provisions of the Town's Business Licensing Ordinance and other applicable Town codes is required throughout the entire license period.

I understand that this Business License Application must be filled out completely, all fees must be paid, and all necessary department inspections must be completed and passed before the license(s) will be considered by the Board of Selectmen.

Business Owner: \_\_\_\_\_ Have you ever been convicted of a Felony? YES / **NO**  
*Signature*

Business Manager: Claire M. Alencup Have you ever been convicted of a Felony? YES / **NO**  
*Signature*  
 (If either person has a Felony conviction, please attach an explanation of the circumstances)

**FOR OFFICE USE ONLY**

FEES	Amount	Map - Lot: 0025 - 0193-A
Application and First License (\$60)	60.00	Processed By: mmawen
Subsequent Licenses (\$30 each)	—	Received Date: 11/3/2014
New License Fee (\$50)	—	Amount Received: \$ 60.00
License Amendment (\$25)	—	Check # 1130 or Cash <input type="checkbox"/>
Other: _____	—	LICENSE #: _____ - _____
TOTAL DUE	\$ 60.00	

Department Approvals		Date of Approval	Special Conditions (Attached if Necessary)
Code Enforcement	— N/A	11/7/2014 Newell	YES <b>NO</b>
Fire	— N/A	12/4/2014 D. Bridges	YES <b>NO</b>
Police	✓ N/A		YES <b>NO</b>
Tax Collector	— N/A	11/5/2014 Szeniewski	YES <b>NO</b>
Board of Selectmen	_____ Town Manager for the Board of Selectmen Date		YES <b>NO</b>



Provide the following information about any relevant State licenses:

STATE LICENSE INFORMATION			
ID Number(s):	LICUOR LICENSE 3032	EATING PLACE ID 4979	RESALE CERT 1035114
Expiration Date(s):	1/14/15	5/31/15	#A 12/31/14
Classification(s):	CLASS 1	EATING PLACE LICENSE	RESALE CERTIFICATE

Please read the following and sign to complete your application:

I understand that a license is required before operating or conducting any business or activity governed by the Town's Business Licensing Ordinance and that ongoing compliance with the provisions of the Town's Business Licensing Ordinance and other applicable Town codes is required throughout the entire license period.

I understand that this Business License Application must be filled out completely, all fees must be paid, and all necessary department inspections must be completed and passed before the license(s) will be considered by the Board of Selectmen.

Business Owner: YORK ELKS #2782 Have you ever been convicted of a Felony? YES  NO   
Signature

Business Manager: [Signature] Have you ever been convicted of a Felony? YES / NO   
Signature  
(If either person has a Felony conviction, please attach an explanation of the circumstances)

**FOR OFFICE USE ONLY**

FEES	Amount	Map - Lot: 0100 - 0024-C
Application and First License (\$60)	60.-	Processed By: mmavery
Subsequent Licenses (\$30 each)	90.-	Received Date: 11/12/2014
New License Fee (\$50)	-	Amount Received: \$ 150.00
License Amendment (\$25)	-	Check # 8117 or Cash <input type="checkbox"/>
Other: _____	-	LICENSE #: _____ - _____
<b>TOTAL DUE</b>	<b>\$ 150.-</b>	
Department Approvals	Date of Approval	Special Conditions (Attached if Necessary)
Code Enforcement	11/20/2014 K. Newell	YES <input type="radio"/> NO <input checked="" type="radio"/>
Fire	12/4/2014 D. Bridges	YES <input type="radio"/> NO <input checked="" type="radio"/>
Police	11/10/2014 O. Davis	YES <input type="radio"/> NO <input checked="" type="radio"/>
Tax Collector	✓ N/A	YES <input type="radio"/> NO <input type="radio"/>
<b>Board of Selectmen</b>	Town Manager for the Board of Selectmen _____ Date _____	YES <input type="radio"/> NO <input type="radio"/>



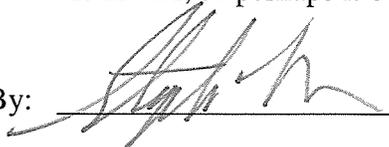
AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> December 5, 2014	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> December 8, 2014	
<b>Regular</b> <input checked="" type="checkbox"/> <b>Work Session</b> <input type="checkbox"/>	
<b>Subject:</b> York Village Sign	

<b>TO:</b> BOARD OF SELECTMEN
<b>FROM:</b> Stephen H. Burns, Town Manager
<b>RECOMMENDATION:</b> information only at this time
<b>PROPOSED MOTION:</b> no motion required

**Discussion:** For some time now the York Village Association has been working to install a sign along York Street notifying people that they are entering historic York Village. A letter was submitted this past summer, with a proposal for a 12' sign to be endorsed or approved by the Board. In advance of this meeting I reviewed the proposal in the context of the Zoning Ordinance and have responded to the Association directly. I concluded there is no jurisdiction for the Board of Selectmen to approve this proposal because of the Zoning Ordinance, and further I found that, with a couple significant modifications, a similar sign could be installed immediately without a permit. I am bringing this forward on the agenda to ensure the Board and public are aware of the request and to find out if there is any interest in looking for alternative solutions. I expect the Village Study Committee's work will be relevant to this matter, so perhaps it's simply a matter of waiting.

Prepared By: 

Reviewed By: \_\_\_\_\_



# Town of York

186 York Street  
York, Maine 03909-1314

Town Manager/  
Selectmen  
(207)363-1000

Town Clerk/  
Tax Collector  
(207)363-1003

Finance/  
Treasurer  
(207)363-1004

Code Enforcement  
(207)363-1002

Planning  
(207)363-1007

Assessor  
(207)363-1005

Police Department  
(207)363-1031

Dispatch  
(207)363-2557

York Beach Fire  
Department  
(207)363-1014

York Village Fire  
Department  
(207)363-1015

Public Works  
(207)363-1011

Harbor Master  
(207)363-1000

Senior Center/  
General Assistance  
(207)363-1036

Parks and  
Recreation  
(207)363-1040

Fax  
(207)363-1009  
(207)363-1019

www.yorkmaine.org

December 2, 2014

Ana Knowles, President  
York Village Association  
P.O. Box 650  
York, ME 03909

re: sign for York Village

Dear Ana,

Regarding your letter to the Board of Selectmen about placing a York Village sign on Michal Ulm's property (165 York Street; map 0049/lot 0003), this is allowed by right without a permit from the Town per Article 16 of the Town's Zoning Ordinance, but the size proposed is too large and must be reduced, and the option for mahogany rather than high density urethane must be selected. Please let me explain.

- Michal Ulm's property is located in the RES 1-B base zoning district, and sign regulations for this zone apply.
- I find the proposed sign to be a *freestanding sign* (see definition in §16.2.8). If classified as an *information sign* (per §16.2.9) then the associated restrictions would be more severe, so the decision to classify as freestanding works to your favor.
- The sign is allowed on private property *without the necessity of a permit from the Town* because the sign has a non-commercial message and I believe it helps to enhance public welfare (see §16.7.1). That said, the sign must comply with all performance criteria for the zone (see §16.7).
- The sign is not illuminated, which is required (see §16.4 and §16.5.2.10).
- The proposed height is 8', which is permitted for freestanding signs in the RES 1-B zone (see §16.5.2.10).
- The sign must be located on the lot at least 33' back from the centerline of York Street per State law (see Title 23 MRS §1401-A(1)(B)).
- The option for solid wood must be selected because only solid wood or metal signs are permitted (see §16.5.2.10).

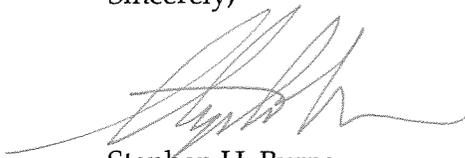
- The maximum area for the sign in this zoning district is 4 square feet. Unfortunately, the proposed 4' by 3' sign has an area of 12 square feet. The size must be reduced (see §16.5.2.10).

The standards are clear, but they do not expressly allow what you have proposed. The Board of Selectmen has no authority to waive or alter any standards of the Zoning Ordinance. Authority to waive or alter zoning requirements rests solely with the Board of Appeals. You could appeal my decision to the Board of Appeals within 30 days of receipt of this letter, though first you would need to submit a formal application for the sign and I would have to write a formal denial. At this time a variance would not be possible because the Ordinance very strictly limits the types of variances and I don't believe this would qualify.

Earlier today I was hopeful that I could give approval for the sign requested though now I find I can't. I will leave this on the agenda for the Board of Selectmen to discuss on December 8<sup>th</sup>, but there is no action they can take at that meeting. If the Town was to place a Town-owned sign at the entry to the village area, it would need to be on public property or in a formal easement. Neither are viable options at this time.

I'm sorry this isn't the solution for which you are hoping. Moving forward, perhaps as the Village Study Committee creates proposals for comprehensive plan and ordinance amendments these standards will change in a manner that can accommodate your proposed sign. I have also asked Dylan Smith, our Town Planner, to propose an amendment to the limit on variances and I am hoping this will be heading to a public vote this coming May. In the meantime, a smaller sign can be installed immediately.

Sincerely,



Stephen H. Burns

Town Manager & Community Development Director

cc: Board of Selectmen

Dean Lessard, Public Works Director  
Amber Harrison, CEO  
Dylan Smith, Town Planner  
Ron McAllister, Chair, VSC  
Property File (0049-0003)

# York Village Association

PO Box 650  
York, ME 03909

Dear Town of York Board of Selectmen:

The York Village Association is a 501 (c) 3 non-profit organization in York. "Our mission is to work with individuals, businesses, and town leadership to enhance the historic charm of York Village and create a thriving community."

As an organization, we're most known for creating and executing the Historic York Village Marketfest every October with the partnership of Museums of Old York and First Parish Church. This October, we'll be presenting our 5<sup>th</sup> Annual Marketfest.

One of our more recent projects has been to work on the visibility of York Village. Our hope is to get York Village on the map as a destination, where tourists and residents, alike, enjoy visiting frequently.

One of our first steps is to have signage indicating the location of, and arrival into, York Village. We'd like to place this sign along York Street on town property for best visibility. Our group has compiled a rendering of the subject sign with specifications for your review and approval. Please find this information attached.

We believe this sign would add charm and interest to York Village, in addition to serving as a directional aid. It's a small measure, but a first step in the benefit and betterment of York Village's visibility and place on the map. The cost of the sign and future maintenance will be provided by York Village Association.

Thank you for your kind consideration of this request. I am open and available to answer questions or present this request in person to the Board, if necessary and appropriate.

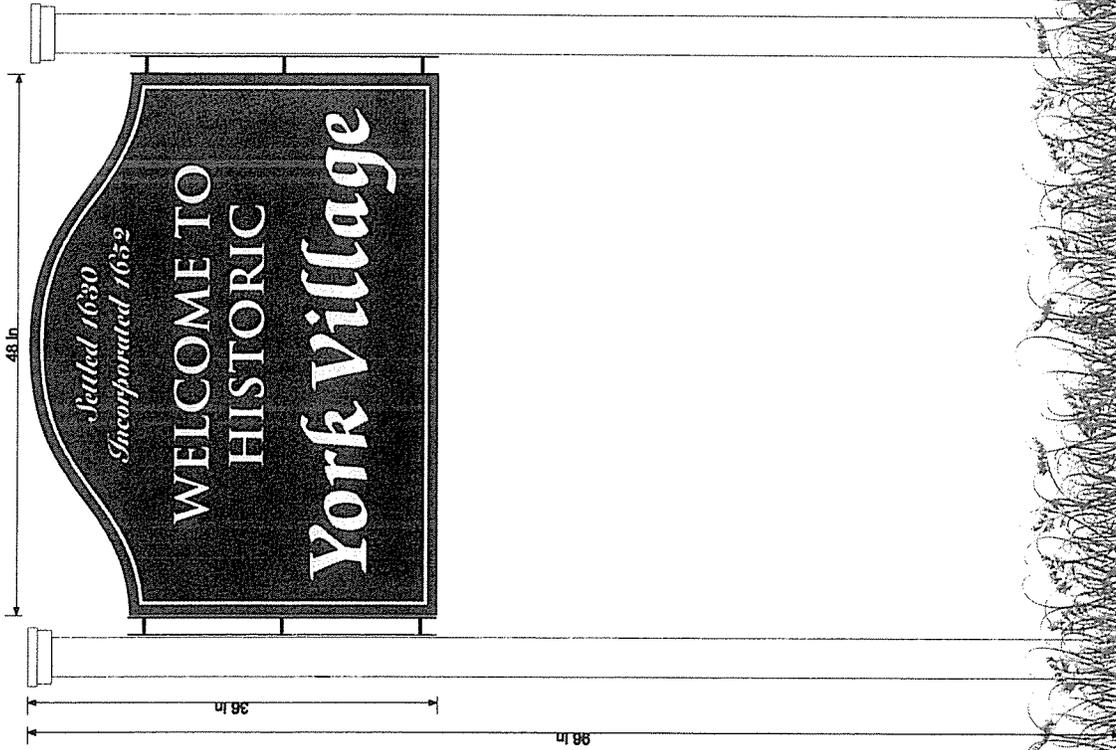
Thank you,



Ana E. C. Knowles  
York Village Association, President

**ANA KNOWLES**

Vice President,  
Banking Center Manager  
p 207.363.3373 f 207.363.4489  
aknowles@thebankofmaine.com  
NMLS #1059756



PortsmouthSign.com  
603-436-0047

**REVISION:**  
All orders under \$250 include 1 revision only.  
All orders over \$250 include 3 revisions only.  
Additional revisions will be charged at \$25 per revision.

**NOTE: Designs are NOT actual size**

7/11/14  
I understand this Order Form is the final production order and replaces all previous drawings, notes and verbal instructions to this job. I have carefully reviewed this form and verify that it contains all necessary specifications and represents my order exactly. I authorize fabrication according to this approval.

**RETURN SIGNED TO: service@portsmouthsign.com**

Member of:  
GREATER  
PORTSMOUTH  
CHAMBER OF COMMERCE  
the Greater  
York Region  
Chamber of Commerce

SIGNATURE: \_\_\_\_\_ Date: \_\_\_\_\_

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Shop Use Only

Qty: SS  DS

Materials: Background Color:

Vinyl Color: HP  Int

Other:



105 Gosling Road  
 Newington, NH 03801  
 www.portsmouthsignco.com

# Estimate

Date	Estimate #
6/30/2014	2542

Phone: (603) 436-0047 Fax: (603) 431-1352

Name / Address
York Village Business Association



This estimate is valid for 30 days from the date of the estimate. Prices are subject to change after 30 days.

Qty	Description	Unit Price	Total
1	48" wide x 36" high single sided custom shaped panel. Routed text. Painted background & text as per approved artwork.	1,140.00	1,140.00
	Panel choices: 1-1/2" thick HDU (high density urethane) or 5/4" thick (1" actual thickness) mahogany		
	Custom painted steel frame with side spacer brackets.	250.00	250.00
	(2) 4" x 4" x 8' painted fir posts & caps.	190.00	190.00
	Installation	150.00	150.00
	<b>Total</b>	<b>1,730.00</b>	<b>1,730.00</b>
	Options: Gold leaf text is available for an additional \$750 +/- depending on design choice.		
	Upgrade: Fir posts, PVC sleeves and post caps in place of painted fir posts for an additional \$90.		
	Terms: 50% deposit, balance on completion. Production: 3-5 weeks from receipt of deposit along with material panel choice and artwork approval. Permits if required are not included.		

Pricing is based on materials, square footage, provided artwork and standard vinyl & paint colors. Layout does not effect pricing unless otherwise noted. Custom colors will be an additional fee per color. Installation is based on normal digging conditions and all signage installed at the same time. Additional install trips may result in additional charges. Permits and electrical hook-up are not included unless noted otherwise. Portsmouth Sign does NOT provide primary electrical to sign location-responsibility of others. Customer is responsible for obtaining approval from landlord/property manager. Terms: For orders over \$500; 50% deposit, balance on completion.



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

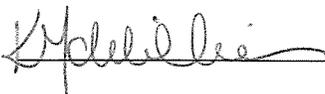
<b>Date Submitted:</b> October 23, 2014	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> December 8, 2014	
<b>Regular</b> <input checked="" type="checkbox"/> <b>Work Session</b> <input type="checkbox"/>	
<b>Subject:</b> General Assistance Ordinance	

<b>TO:</b> BOARD OF SELECTMEN
<b>FROM:</b> Katie L. McWilliams
<b>RECOMMENDATION:</b> Approve the Maine Municipal Association's 2013 General Assistance Ordinance and all Appendices
<b>PROPOSED MOTION:</b> I move to approve the new 2013 General Assistance Ordinance and all Appendices

**Discussion:** General Assistance is currently using the 2005 Ordinance. In September 2013 MMA prepared a new Ordinance that I need to start using.

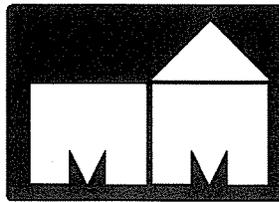
The following appendices should also be adopted:

- Appendix A: GA Overall Maximums
- Appendix B: Food Maximums; these are in accordance with the U.S.D.A Thrifty Food Plan
- Appendix C: Housing Maximums; the numbers provided for York are consistent with local rent values
- Appendix D: Utilities
- Appendix E: Heating Fuel
- Appendix F: Personal Care & Household Supplies
- Appendix G: Mileage Rate
- Appendix H: Funeral Maximums
- Appendix I: Misconduct 26 MRSA § 1043 (23)
- 

Prepared By: 

Reviewed By: 

# **GENERAL ASSISTANCE ORDINANCE**



**Prepared by Maine Municipal Association  
September 2013**

## GENERAL ASSISTANCE ORDINANCE

The Municipality of York enacts the following General Assistance Ordinance. This Ordinance is filed with the Department of Health & Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the 8<sup>th</sup> day of December, 2014, by the municipal officers:

<u>Mary Andrews</u> (Print Name)	_____ (Signature)
-------------------------------------	----------------------

<u>Robert E. Palmer Jr.</u> (Print Name)	_____ (Signature)
---	----------------------

<u>Ronald Nowell</u> (Print Name)	_____ (Signature)
--------------------------------------	----------------------

<u>Jonathan O. Speers</u> (Print Name)	_____ (Signature)
---	----------------------

<u>Torbert Macdonald</u> (Print Name)	_____ (Signature)
--	----------------------

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## ARTICLE I

### Statement of Policy

The Municipality of York administers a program of general assistance (GA) available to all persons who are eligible to receive assistance in accordance with the standards of eligibility as provided within this ordinance, Department of Health and Human Services (DHHS) GA policy and in 22 M.R.S.A. § 4301 et seq.

Every effort will be made to recognize the dignity of the applicant while encouraging self-reliance. The program will strive to help eligible persons achieve self-maintenance by promoting the work incentive. When possible, it will seek to alleviate needs other than financial through rehabilitative, preventive and protective services. The general assistance program will place no unreasonable restrictions on the personal rights of the applicant or recipient, nor will there be any unlawful discrimination based on sex, age, race, nationality, religion, sexual orientation or disability. The municipality is committed to including qualified individuals with disabilities, in municipal services, programs, and activities. As a result, the municipality will promote a GA program that when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. GA applicants with physical or mental disabilities that require a reasonable accommodation in order to access and/or utilize the municipal GA program are encouraged to provide the municipality with advance notice regarding the accommodation request.

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. GA applicants will be provided information regarding their rights and responsibilities under the GA program. Within 24 hours of receiving an application, the administrator will provide the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also provide the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an applicant is determined to be eligible, assistance appropriate to the need will be

furnished within 24 hours after the completed application is submitted except when the administrator issues non-emergency assistance conditionally on the successful completion of a workfare assignment (*see section 5.6 of this ordinance*).

The administrator will maintain complete and accurate records pertaining to each applicant and recipient. These records are confidential as a matter of law (*see 22 MRSA §4306*).

The administrator will post notice stating the day(s) and hours the administrator will be available. The administrator, or other designated person/entity, will be available to take applications in the event of an emergency at all other times. A copy of this ordinance and Maine General Assistance law will be readily available to any member of the public upon request. Notice to this effect will be posted.

## ARTICLE II

### Definitions

#### Section 2.1—Common Meaning of Words

Unless otherwise apparent or defined, all words in this ordinance will have their common meaning.

#### Section 2.2—Special Definitions

**Applicant.** A person who has submitted, either directly or through an authorized representative, an application for general assistance or who has, in an emergency, requested assistance without first completing an application. In addition, all persons on whose behalf an authorized application has been submitted or on whose behalf benefits have been granted shall be considered applicants.

**Application Form.** A standardized form used by the general assistance administrator for the purpose of allowing a person to apply for general assistance and confirming the fact that a person has made application. The application form must be signed by the applicant to be considered complete.

**Basic Necessities.** Food, clothing, shelter, fuel, electricity, non-elective essential medical services as prescribed by a physician, nonprescription drugs, basic telephone service where it is necessary for medical reasons, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or service determined essential by the municipality.

"Basic necessities" do not include:

- Phone bills
- Cable or satellite dish television
- Mail orders
- Vehicle payments
- Credit card debt\*\*
- Furniture
- Loan re-payments\*\*

- Cigarettes
- Alcohol
- Pet care costs
- Vacation costs
- Legal fees
- Late fees
- Key deposits
- Security deposits for rental property(except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full) (22 M.R.S.A. § 4301(1)).

\*\*Repayments of loans or credit will be treated as having been spent on basic necessities when the applicant can provide verification of this fact.

**Case Record.** An official file containing application forms; correspondence; narrative records and all other communications pertaining to an applicant or recipient; written decisions regarding eligibility including reasons for those decisions as well as the types and amounts of assistance provided; and all records concerning an applicant’s request for fair hearing and those fair hearing decisions.

**Categorical Assistance.** All state and federal income maintenance programs.

**Claimant.** A person who has requested a fair hearing.

**Deficit.** An applicant’s deficit is the appropriate overall maximum level of assistance for the household as provided in section 6.8 of this ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the appropriate overall maximum level of assistance, the household has no deficit.

**Disabled Person.** A person who is presently unable to work or maintain a home due to a physical or mental disability that is verified by a physician or qualified mental health provider.

**Dwelling Unit.** A building or part thereof used for separate living quarters for one or more persons living as a single housekeeping unit (22 M.R.S.A. § 4301(2)).

**Eligible Person.** A person who is qualified to receive general assistance from the municipality according to the standards of eligibility set forth in this ordinance (22 M.R.S.A. § 4301(3)). “Eligible Person” does not include a fugitive from justice as defined in 15 M.R.S.A. § 201(4).

**Emergency.** Any life threatening situation or a situation beyond the control of the individual which, if not alleviated immediately, could reasonably be expected to pose a threat to the health or safety of a person. At the municipality’s option, a situation which is imminent and which may result in undue hardship or unnecessary cost to the individual or municipality if not resolved immediately. (22 M.R.S.A. §§ 4301(4), 4308(2), 4310).

**General Assistance Program.** A service administered by a municipality for the immediate aid of persons who are unable to provide the basic necessities essential to maintain themselves or their families. A general assistance program provides a specific amount and type of aid for defined needs during a limited period of time and is not intended to be a continuing “grant-in-aid” or “categorical” welfare program. This definition shall not in any way lessen the responsibility of each municipality to provide general assistance to a person each time that the person is in need and is found to be otherwise eligible to receive general assistance (22 M.R.S.A. § 4301(5)).

**General Assistance Administrator.** A municipal official designated to receive applications, make decisions concerning an applicant’s right to receive assistance, and prepare records and communications concerning assistance. He or she may be an elected overseer or an authorized agent such as a town manager, welfare director, or caseworker (22 M.R.S.A. § 4301(12)).

**Household.** “Household” means an individual or a group of individuals who share a dwelling unit. When an applicant shares a dwelling unit with one or more individuals, even when a landlord-tenant relationship may exist between individuals residing in the dwelling unit, eligible applicants may receive assistance for no more than their pro rata share of the actual costs of the shared basic needs of that household according to the maximum levels of assistance established in the municipal ordinance. The pro rata share is calculated by dividing the maximum level of assistance available to the entire household by the total number of household members. The income of household members not legally liable shall be considered as available to the applicant only when there is a pooling of income (22 M.R.S.A. § 4301(6)).

**Income.** “Income” means any form of income in cash or in kind received by the household including:

- Net remuneration for services performed
- Cash received on either secured or unsecured credit
- Payments received as an annuity, retirement or disability benefits
- Veterans’ pensions and/or benefits
- Retirement accounts or benefits
- Workers’ compensation
- Unemployment benefits
- Federal and/or state tax returns
- Benefits under any state or federal categorical assistance program such as, TANF, Supplemental Security Income, Social Security and any other payments from governmental sources (unless specifically prohibited by any law or regulation)
- Court ordered support payments, e.g., child support
- Income from pension or trust funds
- Household income from any other source, including relatives or unrelated household members
- Student loans
- Rental income

The following items shall not be considered as income or assets that must be liquidated for the purposes of deriving income:

- 1) Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;
- 2) Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or
- 3) Earned income of children below the age of 18 years who are full-time students and who are not working full time.

In determining need, the period of time used as a basis for the calculation shall be a 30-day period commencing on the date of the application. This prospective calculation shall not disqualify an applicant who has exhausted income to purchase basic necessities, provided that the income does not exceed the income standards established by the municipality (22 M.R.S.A. § 4301(7)).

- 4) Certain public benefit programs are specifically exempt from being counted as income for purposes of GA. These programs include:
  - Food Stamps (7 USCS § 2017(b))
  - Li-Heap (42 USCS § 8624)
  - Family Development Accounts (22 M.R.S. § 3762)
  - Americorp VISTA program benefits (42 USCS § 5044 (f))
  - Property tax rebates issued under the Maine Property Tax Fairness Credit program, only so long as the money is spent on basic necessities. (22 M.R.S.A. § 4301(7))
  - Aspire Support Service Payments (10-144 CMR Chapter 323)

**Initial Applicant.** A person who has not applied for assistance in this or any other municipality is considered an initial applicant.

**Just Cause.** A valid, verifiable reason that hinders an individual from complying with one or more conditions of eligibility or from attending a scheduled fair hearing (22 M.R.S.A. § § 4301(8), 4316-A(5)).

**Lump Sum Payment.** A one-time or typically nonrecurring sum of money issued to an applicant or recipient. Lump sum payment includes, but is not limited to, retroactive or settlement portions of social security benefits, workers' compensation payments, unemployment benefits, disability income, veterans' benefits, severance pay benefits, or money received from inheritances, lottery winnings, personal injury awards, property damage claims or divorce settlements. A lump sum payment includes only the amount of money available to the applicant after payment of required deductions has been made from the gross lump sum payment. A lump sum payment does not include conversion of a non-liquid resource to a liquid resource if the liquid resource has been used or is intended to be used to replace the converted resource or for other necessary expenses. (22 MRSA § 4301 (8-A)).

**Material Fact.** A material fact is a fact that necessarily has some bearing on the determination of an applicant's general assistance eligibility, and which would, if disclosed to the administrator, have some determinable effect on the calculation of eligibility or the issuance of a grant of assistance.

**Maximum Levels of Assistance.** The amount of financial assistance for a commodity or service as established in section 6.8 of this ordinance or the actual cost of any such basic necessity, whichever is less.

**Misconduct.** For purposes of the GA work requirement (*see 22 MRSA §4316-A*) misconduct shall have the same meaning as misconduct defined in 26 MRSA §1043 (23). (*See Appendix I of this ordinance for the official definition of misconduct.*) Generally, employees are guilty of misconduct when the employee violates his or her

duties or obligations to the employer. Employees who engage in a pattern of irresponsible behavior to the detriment of the employer's interest may also be found guilty of misconduct.

**Municipality.** Any city, town or plantation administering a general assistance program.

**Municipality of Responsibility.** The municipality which is financially liable for the support of an eligible person at the time of application (22 M.R.S.A. §§ 4301(9), 4307).

**Need.** The condition whereby a person's income, money, property, credit, assets or other resources available to provide basic necessities for the individual and the individual's family are less than the maximum levels of assistance (22 M.R.S.A. §§ 4301(10), 4308).

**Net General Assistance Costs.** Those direct costs incurred by a municipality in providing assistance to eligible persons according to standards established by the municipal officers. These do not include the administrative expenses of the general assistance program (22 M.R.S.A. §§ 4301(11), 4311).

**Period of Eligibility.** The time for which a person has been granted assistance. The period of eligibility may vary depending on the type of assistance provided, however, in no event shall this period extend beyond one month (22 M.R.S.A. § 4309(1)).

**Pooling of Income.** "Pooling of income" means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Municipalities may by ordinance establish as a rebuttable presumption that persons sharing the same dwelling unit are pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumed pooling of income.

**Real Estate.** Any land, buildings, homes, mobile homes and any other things affixed to the land (22 M.R.S.A. § 4301(13)).

**Recipient.** A person who has applied for and is currently receiving general assistance.

**Repeat Applicants.** All applicants for general assistance that are not initial applicants are repeat applicants. For purposes of this ordinance repeat and subsequent shall have the same meaning.

**Resident.** A person who is physically present in a municipality with the intention of remaining in that municipality in order to maintain or establish a home and who has no other residence. A person who applies for assistance in a municipality who is not a resident of that municipality or any other municipality is the responsibility of the municipality where the person first applies. That municipality must take an application and grant assistance to the applicant if he/she is eligible, until he/she establishes a new residence in another municipality (22 M.R.S.A. § 4307).

**Resources.** Resources include any program, service, or other sources of support which are an alternative to or supplement for general assistance. There are two kinds of resources: “available” and “potential”. Potential resources are programs, services, non-liquid assets, or trusts that typically require people to apply in writing and/or wait a period of time before eligibility is determined or the potential income is released.

Potential resources include but are not limited to any state or federal assistance program, employment benefits, governmental or private pension program, available trust funds, support from legally liable relatives, child support payments, and jointly held resources where the applicant or recipient share may be available to the individual (22 M.R.S.A. § 4317). Potential resources include the TANF (previously known as AFDC) program, Food Stamps, fuel assistance (HEAP), subsidized housing, and similar programs.

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for

which the applicant does not have to take any unreasonable steps to secure (e.g., relocation beyond the immediate region). At the discretion of the GA administrator a necessary minimum balance required by a financial institution in order to obtain free checking or in order to maintain the account shall not be considered an available resource.

The municipal GA administrator reserves the right to inform GA clients of services, commodities or facilities made available by private organizations or charities. Although GA applicants/recipients may be informed of the existence of a charitable resource and/or organization, GA eligibility shall not be based or conditioned on the use of a private charitable resource(s).

**30-Day Need.** An applicant's 30-day need is the sum of the household's prospective 30-day costs, from the date of application, for the various basic necessities. For the purpose of this calculation, the 30-day cost for any basic need shall be the household's actual 30-day cost for the basic necessity or the maximum 30-day cost for the basic necessity as established by this ordinance, whichever is less.

**Unforeseen Repeat Applicants.** Are repeat applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source and who have unexpectedly become unemployed through no fault of their own or whose benefits (e.g., through an available resource) have ceased through no fault of their own.

**Unmet Need.** An applicant's unmet need is the household's 30-day need as established by section 6.6 of the ordinance less the household income as calculated pursuant to section 6.7 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the household's 30-day need, the household does not have an unmet need.

**Work Requirements.** Work requirements are those obligations the municipal administrator places on applicants for general assistance as directed and/or authorized

by 22 M.R.S.A. § 4316-A to the extent such obligations ensure a continuing potential eligibility for general assistance when complied with, result in ineligibility when violated, and are not merely optional, discretionary, or advisory. Work requirements include registering for work, looking for work in good faith, accepting all suitable job offers, maintaining employment, performing workfare, and participating in training, educational, or rehabilitation programs that will assist the participant in securing employment.

## ARTICLE III

### Administrative Rules and Regulations

The following are rules and regulations for the administration of general assistance.

#### Section 3.1—Confidentiality of Information

Case records and all other information relating to an applicant or recipient of general assistance are confidential and will not be disclosed to the general public, unless the applicant or recipient states in writing what information is to be released (22 M.R.S.A. § 4306).

**Release of Information.** Applicants, recipients and their legal representatives have the right to review their case records. No record will be released to a third party, however, unless the administrator receives a consent form signed by the applicant expressly authorizing the release of his or her records to the specified parties. Whenever the administrator releases any information, he/she will make a notation in the applicant's file stating to whom the record was released and the date. The administrator may charge a reasonable fee for the reproduction of any records when appropriate.

**Information from Other Sources; Penalty.** Information furnished to the municipality by the Department of Health and Human Services or any other agency or institution pursuant to 22 M.R.S.A. § 4314, is confidential. The general assistance administrator will also comply with laws relating to the confidentiality of vital statistic records such as those concerning birth, marriage and death. (22 M.R.S.A. § 2706).

Any representative of a financial institution (except national banks) or any employer of a general assistance applicant who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than \$25 nor more than \$100. Any person, including the applicant, who knowingly and willfully makes a false representation of a

material fact to the administrator is committing a Class E crime (22 M.R.S.A. § § 4314, 4315).

**Misuse of Information.** Misuse of any information relating to an applicant or recipient is a punishable offense (22 M.R.S.A. § 42(2)).

### Section 3.2—Maintenance of Records

The general assistance administrator will keep complete and accurate general assistance records (22 M.R.S.A. § 4306). These records are necessary to:

- a) provide a valid basis of accounting for municipal expenditures;
- b) document and support decisions concerning an applicant or recipient; and
- c) ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

**Case Records.** The administrator will establish and maintain a separate case record, either in paper format or digital format for each applicant or recipient. Each case record will include at least:

- household applications
- budget sheets
- information concerning the types and amounts of assistance provided
- narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's mathematical eligibility (i.e., deficit or unmet need, whichever is less)
- written decisions
- requests for fair hearings and the fair hearing authority decisions
- workfare participation records
- repayments to the municipality
- narrative writings documenting the need for general assistance, the

- results of home visits,
  - collateral information,
  - referrals, changes in status
- client authorization(s) for the release of GA information and/or reason(s) for the release of confidential information
- adjustments in aid, and suspension or termination of eligibility
- physician's documentation
- Supplemental Security Income (SSI) interim assistance reimbursement authorization forms
- vendor forms

Case records will not include information or material that is irrelevant to either the applicant's or recipient's application or the administrator's decisions.

**Retention of Records.** General assistance records shall be retained for a minimum of three full years. The three year period shall coincide with the State's fiscal year which begins July 1 and ends on the following June 30. Records may be destroyed after three years by one of the two preferred methods of destruction for confidential records, i.e., supervised shredding, burning or appropriate digital deletion/destruction process. In the event a client's records contain SSI reimbursement forms, the client's records should be maintained so that the municipality may seek reimbursement.

## ARTICLE IV

### Application Procedure

#### Section 4.1—Right to Apply

**Who May Apply.** Anyone may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in special emergency situations as provided in section 4.9 of this ordinance or except when the applicant is a resident of an emergency shelter and the municipality has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance (22 M.R.S.A. §4304(3)). In such cases, the administrator may require a representative to present a signed statement documenting that he/she is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility (22 M.R.S.A. § § 4305, 4308). With notice, all members of the household receiving general assistance may be required to physically present themselves to the administrator. Note that fugitives from justice are ineligible for general assistance.

**Application Via Telephone.** When a person has an emergency but is unable to apply in person due to illness, disability, lack of child care, lack of transportation or other good cause, and he/she cannot send an authorized representative, the administrator will accept an application by telephone. The telephone application process will include the administrator receiving written verification by mail and visiting the applicant's home with his or her permission (22 M.R.S.A. § 4304).

**Written Application Upon Each Request.** Each request for assistance will be administered in accordance with these guidelines. The administrator will make an independent determination of eligibility for general assistance each time a person applies (22 M.R.S.A. § § 4308, 4309).

**Applications Accepted; Posted Notice.** Application forms will be available during regular business hours at the municipal office and when the general assistance administrator is conducting interviews with applicants. Notice will be posted stating when and where people may apply for assistance and the name of the administrator available to take emergency applications at all other times. In addition, the posted notice shall include the fact that the municipality must issue a written decision on all applications within 24 hours, and the DHHS toll-free telephone numbers for reporting alleged violations or complaints. Completed applications will be accepted and interviews given only during the regular hours established and posted by the administrator. In an emergency, however, the administrator or his or her designee will be available to accept applications for assistance whenever necessary (22 M.R.S.A. § 4304).

#### Section 4.2—Application Interview

Except when it is impractical, the general assistance administrator will interview each applicant personally before making a decision. The interview will be conducted in private, although the applicant may be accompanied by a legal representative, friend or family member.

#### Section 4.3—Contents of the Application

At a minimum, the application will contain the following mandatory information:

- |  |   |
|--|---|
| a) applicant's name, address, date of birth, Social Security number or appropriate United States Customs and Immigration Services (USCIS) documentation, and phone number; | household members for whom the applicant is seeking assistance; |
| b) names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other  | c) total number of individuals living with the applicant;       |
|  | d) employment and employability information;                    |

- e) all household income, resources, assets, and property;
- f) household expenses;
- g) types of assistance being requested;
- h) penalty for false representation;
- i) applicant's permission to verify information;
- j) signature of applicant and date.

In the event an initial applicant is unable to provide identification records (e.g., Social Security card/number) because the record may have been lost, stolen or misplaced, the initial applicant may be provided a reasonable amount of time, e.g., five working days, in order to obtain copies of identification records. Provided the initial applicant makes a good faith effort to obtain the item/record sought, GA required to cure an immediate and/or emergency need shall not be withheld. In such cases the municipality may elect to provide only a prorated amount of GA, e.g., five day's worth, while the applicant proceeds to obtain the required information.

Section 4.4—General Assistance Administrator's Responsibilities at the Time of the Application

The administrator will make every effort to inform all applicants of their rights and responsibilities as well as the general program requirements associated with applying for and receiving general assistance, including application requirements, eligibility guidelines, applicant rights, and applicant reimbursement obligations.

**Application Requirements.** The administrator will help the applicant fill out the application form as described in the preceding section. The administrator will inform the applicant of any other information or documentation that the applicant will have to provide in order for the administrator to evaluate the applicant's eligibility for assistance. The administrator will fully explain the purpose of any release of information form or reimbursement agreement before seeking to obtain the applicant's signature or written authorization.

**Eligibility Requirements.** The administrator will inform, either verbally or in writing, the applicant of the eligibility requirements of the program, including:

- the income standard of need;
- the applicant's ongoing use-of-income, work-related, and resource-related responsibilities, as described in the section immediately below;
- the financial reduction in assistance that is the consequence of spending household income on non-basic necessities; and
- the disqualification penalties associated with committing fraud, failing to perform work-related assignments without just cause, or failing to make a good faith effort to secure potential resources when the requirement to attempt to obtain those resources has been explained to the applicant in writing.

**Applicant Rights.** The administrator will inform all applicants of their rights to:

- review the municipal General Assistance ordinance and Maine General Assistance law;
- apply for assistance;
- receive a written decision concerning eligibility within 24 hours of applying for assistance;
- confidentiality;
- contact the DHHS;
- challenge the administrator's decision by requesting a fair hearing.

**Reimbursement/Recovery.** The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. The municipality may also, as appropriate, contact the client's legal representative to inform him or her of the client's obligation to repay the municipality under the GA program. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for

the applicant's support (spouses, parents of persons under the age of 25, see Article VIII, "Recovery of Expenses") (22 M.R.S.A. § § 4318, 4319). Whenever applicable, the administrator will explain the various liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the Workers' Compensation lump sum payment lien, or the SSI "interim assistance agreement" lien, as these liens are described in Article VIII, "Recovery of Expenses".

#### Section 4.5—Responsibilities of the Applicant at the Time of Application

The applicant has the responsibility at the time of each application to provide accurate, complete and current household information and verifiable documentation concerning:

- Income
- Resources
- Assets
- Employment
- Use of income
- Names and addresses of any relatives legally liable for the applicant's support
- Any change in this information from a previous application that would affect household eligibility (22 M.R.S.A. §4309).

In addition, the applicant must accurately report and provide verifiable documentation that shows the applicant:

- a) has remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;
- b) has been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;

- c) has made use of all available and potential resources when directed in writing to such a program by the administrator, including, but not limited to, other government benefit programs or the assistance of liable relatives of sufficient means; and
- d) has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish the applicant's need for general assistance (22 M.R.S.A. § §4316-A, 4317).

#### Section 4.6—Action on Applications

**Written Decision.** The general assistance administrator will give a written decision to the applicant concerning his or her eligibility within 24 hours after the applicant submits a written application. Assistance will be furnished to eligible applicants within that period except when the municipality is permitted by law (and pursuant to section 5.6 of this ordinance) to issue assistance conditionally on the successful completion of a workfare assignment (22 M.R.S.A. § § 4305, 4316-A, 4321). A written decision will be given each time a person applies, whether assistance is granted, denied, reduced or terminated.

**Content.** The written decision will contain the following information:

- a) the type and amount of aid the applicant is being granted or the applicant's ineligibility;
- b) the period of eligibility if the applicant is eligible for assistance;
- c) the specific reasons for the decision;
- d) the applicant's right to a fair hearing; and

- e) the applicant's right to notify the DHHS if he/she believes the municipality has acted illegally (22 M.R.S.A. § 4321).

#### Section 4.7—Withdrawal of an Application

An application is considered withdrawn if:

- a) the applicant requests in writing that his or her application be withdrawn; or
- b) the applicant refuses to complete or sign the application or any other form needed by the general assistance administrator.

#### Section 4.8—Temporary Refusal to Accept Application

Under special circumstances, the general assistance administrator may temporarily refuse to accept applications. Such circumstances may include, but are not limited to, the following:

- a) When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will only be accepted when his or her conduct is under control.
- b) If the administrator believes that an applicant's behavior presents a threat to the health or safety of the public or to a municipal employee, or if such behavior is violent, or if an applicant has engaged in abusive, disruptive or harassing behavior and has been required to leave on more than one occasion, then the applicant may be required to designate a third party to apply for assistance on his or her behalf and the applicant may be prohibited from entering the municipal building;

- c) When a third person applies for assistance on behalf of the applicant that person may be required to provide written verification that he/she has been duly authorized to act as a representative for the applicant (22 M.R.S.A. § 4308).

#### Section 4.9—Emergencies

An emergency is considered to be any life threatening situation or a situation beyond the control of the applicant which if not alleviated immediately could reasonably be expected to pose a threat to the health or safety of the applicant or a member of the household (22 M.R.S.A. § 4301(4)). Although they may be considered otherwise ineligible to receive general assistance, persons who apply for assistance to alleviate an emergency may be granted assistance, except as provided below, if they do not have sufficient income and resources to meet an actual emergency need and have not had sufficient income and resources to avert the emergency (22 M.R.S.A. § 4308).

A municipality may provide emergency assistance when the municipality determines that an emergency is imminent and that failure to provide assistance may result in undue hardship and unnecessary costs to either the client or the municipality.

**Disqualification.** A person who is currently disqualified from receiving General Assistance due to a violation of sections 5.5, 5.6, 5.7, 5.8, 5.9 or 6.4 of this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. § 4308(2)(A)). However, dependents of a disqualified person may be eligible for assistance. For the purposes of this section, “dependents” are defined as: 1) a dependent minor child; 2) an elderly, ill or disabled person; or 3) a person whose presence is required to provide care for any child under the age of 6 years or any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated by dividing the maximum level of assistance available to the entire household by the total number of household members.

**Assistance Prior to Verification.** Whenever an applicant informs the administrator that he/she needs assistance immediately, the administrator will grant, pending verification, the assistance within 24 hours, provided that:

- a) after interviewing the applicant the administrator has determined that the applicant will probably be eligible for assistance after a verification of information is completed; and
- b) the applicant submits documentation when possible, to verify his or her need. The administrator may contact at least one other person to confirm the applicant's statements about needing emergency assistance. No further assistance will be authorized until the applicant's eligibility is confirmed (22 M.R.S.A. § 4310).

**Telephone Applications.** If a person has an emergency need and cannot apply in person due to illness, disability, lack of transportation, or other good cause, and if there is no authorized representative who can apply on behalf of the applicant, the administrator shall accept an application over the telephone (22 M.R.S.A. § 4304).

The administrator will not grant any assistance as the result of a telephone application if the applicant refuses to allow the administrator to verify the information either by visiting his or her home or by mail and the administrator cannot determine his or her eligibility through any other means.

**Limitation on Emergency Assistance.** Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace the misspent money (22 MRSA § § 4308(2) & 4315-A).

All applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert

the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

- a) The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.
- b) The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his or her basic necessities for the applicable time period, including evidence of all income and resources received over that period of time.
- c) The administrator shall calculate all costs for the household's basic necessities during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic necessity or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.
- d) From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.
- e) The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection (d), even when such a grant will not totally alleviate the emergency situation.

- f) The administrator may waive this limitation on emergency assistance in life threatening situations or for initial applicants; that is, persons who have never before applied for general assistance.
- g) Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

#### Section 4.10—Residence

The administrator shall provide general assistance to all eligible persons applying for assistance who are residents of this municipality. A resident is a person who has no other residence and is physically present in this municipality and who intends to remain here and establish a household.

The municipality also recognizes its responsibility to provide assistance to eligible persons who apply here and who are not residents of this municipality or any other municipality. If a person who is not a resident of any municipality applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until he/she establishes a residence in another municipality (22 M.R.S.A. § 4307).

**Moving/Relocating.** The municipality will not consider moving or transporting an applicant or recipient into another municipality unless the person requests assistance to relocate to another municipality. If the administrator determines the applicant is eligible and grants financial assistance to help with the requested relocation, this municipality will be responsible for providing assistance to the applicant for 30 days after he/she moves provided the recipient remains eligible.

**Institutions.** If a resident of this municipality enters an institution located in another municipality (such as a group home, shelter, rehabilitation center, nursing home, or

hospital) and requests assistance while at the institution, he/she will be the responsibility of this municipality for up to 6 months after he/she enters the institution if the conditions of 22 M.R.S.A. § 4307 and §4313 are met. The municipality thereafter retains responsibility for an applicant in an institution only if the applicant has maintained a home in this municipality to which he/she intends to return. The municipality also recognizes its responsibility for applicants residing in an institution in this municipality if such an applicant had no residence prior to entering the institution (22 M.R.S.A. § 4307(4)).

**Temporary Housing.** Hotels/motels and similar places of temporary lodging are considered institutions if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging.

**Note:** Municipalities which illegally deny housing assistance and, as a result of the denial, the applicant stays in temporary lodging are responsible for the applicant for up to 6 months and may be subject to other penalties (22 M.R.S.A. § 4307(4)).

**Disputes.** When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility the administrator will notify the DHHS in Augusta (287-3654 or 1-800-442-6003). If the applicant applies in this municipality first, the administrator will determine his or her eligibility and, if eligible, will grant assistance until the DHHS has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the DHHS will recover the amount due from the other municipality. (22 M.R.S.A. § § 4307(5), 4307(6)).

## ARTICLE V

### Eligibility Factors

A person will be eligible for general assistance if he/she is in need and has complied with the eligibility requirements set forth below.

#### Section 5.1—Initial Application

**Initial Application.** For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S.A. § 1043 (23)) (*see section 5.5 of this ordinance*) and to fugitives from justice as defined in 15 M.R.S.A. § 201(4) (22 M.R.S.A. § 4301(3)). An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S.A. § 4308(1)).

“Need” means that the applicant’s income (including prorated income, where applicable), property, credit, assets or other resources are less than the overall maximum level of assistance contained in section 6.8 of this ordinance or the applicant’s 30-day need, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.

**Subsequent Applicants.** Persons who are not initial applicants are repeat applicants. Repeat applicants are people who have applied for general assistance at any time in the past. Repeat applicants are also people on whose behalf a general assistance application was made at any time in the past, provided that at such a time the applicant was not a dependent minor in the household. For repeat applicants to be eligible for general assistance, they must be in need and meet all other eligibility requirements. The eligibility of repeat applicants may also be adversely affected to the extent they have not used their income and resources to secure basic necessities.

## Section 5.2—Eligibility for Categorical Assistance

Receipt of categorical assistance will not disqualify a person from receiving general assistance if the applicant is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of Food Stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. § 2017 (b)).

In addition, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs (42 U.S.C. §8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under “Types of Income” at section 6.7 of this ordinance. For several additional exceptions please refer to the definition of “Income” in this ordinance (see page 7, subsection 4).

Applicants or recipients must apply for other program benefits within 7 days after being advised in writing to do so by the general assistance administrator. Persons who, without just cause, make no good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. § 4317).

## Section 5.3—Personal Property

- a) **Liquid Assets.** No person owning assets easily convertible into cash, including but not limited to, bank deposits, stocks, bonds, certificates of deposit, retirement accounts, life insurance policies and other marketable security, will be eligible for general assistance unless and until he or she uses these assets to meet his or her basic needs, and thereby exhausts them. At the discretion of the GA administrator, liquid assets do not mean a reasonable minimum balance necessary for obtaining free checking. Although one checking account per

household may be allowed, any monies over the minimum required to obtain free checking are to be considered available liquid assets.

- b) **Tangible Assets.** No person owning or possessing personal property, such as but not limited to: a motor vehicle (except as provided immediately below in subsection c), or a boat, trailer, recreation vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household, will be eligible for general assistance. Exceptions may be made when a person is making an initial application or is an unforeseeable repeat applicant as defined in Section 2.2 or when reasonable efforts to convert assets to cash at fair market value are unsuccessful. Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.
- c) **Automobile Ownership.** Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment or for seeking employment, obtaining medical care, rehabilitation or training facilities, or for any other reason the GA administrator determines reasonable for the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than \$8000 may be required, with written, 7-day notice, to make a good faith effort to trade that automobile for an automobile with a market value of less than \$8000. Any income received by the applicant by virtue of such a trade down must be used for his or her basic necessities. Failure to liquidate or trade down the excess value of any automobile asset can result in disqualification (22 M.R.S.A. § 4317).

The municipality will neither pay nor consider as necessary any car payment or vehicle maintenance cost including insurance for which the applicant is responsible. However, provided the vehicle value is \$8000 or less and the applicant is utilizing the vehicle for any of the above mentioned "essential"

reasons, the municipality in its discretion may choose to not consider reasonable car payments, reasonable car insurance and reasonable associated costs of maintenance as “misspent” income. General assistance for travel-related needs shall be computed in accordance with section 6.8(F)(7), (8) “Work Related/Travel Expenses.”

- d) **Insurance.** Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may, at the discretion of the GA administrator, be considered as a tangible asset.
- e) **Transfer of Property.** Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will be issued. There will be a presumption that the applicant transferred his or her assets in order to be eligible for general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of a good faith transaction.

#### Section 5.4—Ownership of Real Estate

- a) **Principal Residence.** For purposes of General Assistance solely, the applicant’s principal residence, including any adjoining land, is considered an exempt resource, even if temporarily unoccupied because of employment, job training, education, illness or disaster, provided there is demonstrated an intent to return. If the applicant owns land in excess of the minimum lot size for the zone or district in which the home is located, then that land may be considered a potential resource if:

1. The applicant has received General Assistance for the last 120 consecutive days; and
2. The applicant has the legal right to sell the land (e.g., any mortgagee will release any mortgage, any co-owners agree to the sale, zoning or other land use laws do not render the sale illegal or impracticable); and
3. The applicant has the financial capability to put the land into a marketable condition (e.g., the applicant can pay for any necessary surveys); and
4. The land is not utilized for the maintenance and/or support of the household; and
5. A knowledgeable source (e.g., a realtor) indicates that the land in question can be sold at fair market value, for an amount which will aid the applicant's financial rehabilitation; and
6. No other circumstances exist which cause any sale to be unduly burdensome or inequitable.

If the above conditions are met, then the administrator may condition the receipt of future assistance on the applicant's good faith efforts to sell, or render saleable, land which could be used to provide necessary support for the applicant (e.g., the applicant owns 100 "excess" acres. Sale of 10 of the acres would provide for the necessary support and therefore not all the land need be sold at the present time.) Assistance shall not be denied during the time that the applicant is making a good faith effort to sell or render saleable the land in question.

Once the applicant ceases to receive assistance the obligations under this section shall also cease.

b) **Other Property.** If the applicant or dependents own real property other than that occupied as the principal residence, continued eligibility will depend on the applicant making a reasonable effort to:

1. Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or
2. Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to a third party in order to become eligible for general assistance will be ineligible.

If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipality may claim a lien against the property.

The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient (*see also section 6.8 of this ordinance*) (22 M.R.S.A.

§ 4320).

#### Section 5.5—Work Requirement

All general assistance recipients are required to register for work, look for work, work to the extent of available employment, and otherwise fulfill the work requirements, unless the applicant is exempt from such requirements as provided below.

**Employment; Rehabilitation.** All unemployed applicants and members of their households who are 16 years of age or older and who are not attending a full-time primary or secondary school intended to lead to a high school diploma will be required to accept any suitable job offer and/or meet with job counselors, attend employment workshops and rehabilitative services, except as provided below (*see “Exemptions”*). Applicants must demonstrate to the administrator that they are available for work and are actively seeking employment.

A “suitable job” means any job, which the applicant is mentally and physically able to perform. “Available for work” means that applicants must make themselves available for

work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

**Verification.** Unemployed applicants or applicants employed on a part-time basis will be required to provide verifiable documentation of their pursuit of employment at the time of each application. At a minimum, such documentation shall consist of a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted. "Pursuit of employment" means actually submitting a written application or applying for a job in person when reasonable, or submitting a written application or letter of inquiry to employers.

For the duration of any repeat applicant's period of unemployment or partial employment, the administrator will establish the number of employers per week to whom each non-exempt applicant shall be required to apply in order to fulfill his or her work search requirements. The number of weekly employer contacts required by the administrator shall be reasonably related to the number of potential employers in the region and the number of hours in the week the applicant has available for work search activities after considering all time the applicant must devote to existing employment obligations, workfare obligations, and required classroom or on-site participation in job training, educational, or rehabilitation programs. Fulfillment of these requirements will not be expected at the time of the initial application, but will be a condition of eligibility for subsequent assistance.

**Ineligibility.** After being granted assistance at the time of initial application, applicants will be considered ineligible for further assistance for 120 days if they, without just cause:

- a) refuse to register for employment with the Maine Job Service;
- b) refuse to search diligently for employment when the search is reasonable and appropriate; recipients who unreasonably seek work at the same places

repeatedly will not be considered to be performing a diligent work search and will be disqualified;

- c) refuse to accept a suitable job offer;
- d) refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;
- e) fail to be available for work; or
- f) refuse to participate or participate in a substandard manner in the municipal work program (*see section 5.6*).

**Ineligibility Due to Job Quit or Discharge for Misconduct.** No applicant, whether an initial or repeat applicant, who has quit his or her full-time or part-time job without just cause or who has been discharged from employment for misconduct (*see Appendix I, 26 M.R.S.A. § 1043 (23) for the definition*) will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment (22 M.R.S.A. § § 4301(8), 4316-A (1-A)).

**Just Cause.** Applicants will be ineligible for assistance for 120 days if they refuse to comply with the work requirements of this section without just cause. With respect to any work requirement, just cause will be considered to exist when there is reasonable and verifiable evidence that:

- a) the applicant has a physical or mental illness or disability which prevents him/her from working;
- b) the work assignment pays below minimum wages;
- c) the applicant was subject to sexual harassment;
- d) the applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;

- e) the applicant has no means of transportation to or from work or a training or rehabilitation program;
- f) the applicant is unable to arrange for necessary child care or care of ill or disabled family members; or
- g) any reason found to be good cause by the Maine Department of Labor, or any other verifiable reason the administrator considers reasonable and appropriate will be accepted as just cause. (22 M.R.S.A. § 4316-A(5)).

**Applicant's Burden of Establishing Just Cause.** If the administrator finds that the applicant has violated a work-related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause (22 M.R.S.A. § 4316-A).

**Eligibility Regained.** Persons who are disqualified for 120 days because they violated a work requirement may regain their eligibility if and only when they become employed or otherwise satisfy the administrator that they are complying with the work requirement by fulfilling the work requirement or requirements they violated.

For the purpose of regaining eligibility by becoming employed, "employment" shall mean employment by an employer as defined in 26 M.R.S.A. § § 1043 et seq., or the performance of a service for an employer who withholds from the employee a social security tax pursuant to federal law.

The special provisions regarding the opportunity to regain eligibility after a disqualification for workfare violations are detailed in section 5.6 of this ordinance, under "Eligibility Regained".

**Dependents.** Failure of an otherwise eligible person to comply with the work requirements shall not affect the eligibility of any member of the person's household who is not capable of working, including:

- a) a dependent minor child;
- b) an elderly, ill, or disabled person; and

- c) a person whose presence is required in order to provide care for any child under 6 years of age or for any ill or disabled member of the household (22 M.R.S.A. § 4309(3)).

In the event one (or more) member(s) of a household is disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated by dividing the maximum level of assistance available to the entire household by the total number of household members.

**Exemptions.** The above work requirements do not apply to any person who is elderly, physically or mentally ill or disabled. Any person whose presence is required to care for any pre-school age child or for any ill or disabled member of the household is also exempt from these requirements.

The requirements of this section will not be imposed so as to interfere with an applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom or on site participation in a training program which is either approved by the Department of Labor or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Labor.

#### Section 5.6—Municipal Work Program

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a non-profit organization, as a condition of receiving assistance (22 M.R.S.A. § 4316-A(2)).

As part of the municipal work program, the municipality can require recipients to participate in training, education, or rehabilitative programs that will assist the recipient

in securing employment. The work requirement provisions found in section 5.5 regarding just cause, dependents, and exemptions also apply to the municipal workfare program.

**Consent.** Persons assigned to the work program are required to sign a form stating that they understand the requirements of general assistance and the work program. Prior to signing the form, the administrator will read it to the applicants or the applicants will read it themselves. The form will also state the number of hours the applicants must work and the hourly rate by means of which the duration of the work assignment is calculated. In addition, the consent form shall describe the consequences of failing to adequately perform part or all of the workfare or workfare-first assignment.

**Subtracting Value of Workfare Performed from Client's GA Debt.** Pursuant to 22 MRSA § 4318 individuals owing the municipality funds for general assistance provided to them are obligated to repay the municipality when and if they become able (*see Article VIII*). However, persons performing workfare shall have the value of the workfare performed deducted from any and all GA debt including GA liens (e.g., Workers' Compensation Settlement, SSI Retroactive Payment, Capital Improvement, Home Mortgage) that might exist against their settlements, payments or other such property.

**Limitations.** The work requirement is subject to the following limitations (22 M.R.S.A. § 4316-A(3)).

- 1) No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance, the value of which is calculated at a rate of at least the prevailing minimum wage under state or federal law at the time the workfare was performed.
- 2) No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs.

- 3) In no case shall eligible persons performing work under this subsection replace regular municipal employees.
- 4) In no case will work performed under this subsection interfere with an eligible person's:
  - a) existing employment;
  - b) ability to follow up on a bona fide job offer;
  - c) attendance at an interview for possible employment;
  - d) classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or
  - e) classroom or on site participation in a training program which is approved by the Department of Labor or determined by the Department of Labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree-granting program administered by the DHHS or the Department of Labor.
- 5) In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his or her regular employment would result in the person working more than 40 hours per week.
- 6) In no case will an eligible person be required to perform work beyond his or her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309).

If the administrator requires a doctor's statement to verify an applicant's illness or disability and the applicant is not currently under the care of a provider, the municipality may pay for the doctor's evaluation if the applicant has no means to pay for the exam. However in such a case the administrator will choose the doctor. If there is a no-cost or low-cost health care option, the municipality may elect to refer the client to such a resource. The administrator will not require

verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. § 4316(5)).

- 7) In no case may an eligible person with an immediate need (i.e., a person in an emergency situation who has not been disqualified from receiving assistance for committing a program violation) be required to perform work under this subsection prior to receiving general assistance. The administrator shall meet immediate needs upon receiving written assurance from the eligible person that he/she is willing to work to maintain eligibility for general assistance. When the recipient has no immediate need, workfare participation may be required prior to receiving general assistance in accordance with the following “workfare first” policy.

**“Workfare First” Policy.** Under the authority of 22 M.R.S.A. § 4316-A(2)(D), the administrator may, in accordance with the following guidelines, require a recipient of general assistance to perform a workfare assignment prior to the actual issuance of the general assistance benefit conditionally granted.

- 1) In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.
- 2) All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:
  - a) a specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;
  - b) the period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);

- c) the rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is calculated;
  - d) the actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;
  - e) the specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisors' names and contact telephone numbers; and
  - f) any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.
- 3) As previously provided in this section, all workfare participants under this policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.
- 4) If a portion of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with section 6.10 of this ordinance.
- 5) Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just

cause reasons shall be reassigned or excused at the discretion of the GA administrator.

**Work-Related Expenses.** A participant's expenses related to work performed under this section will be added to the amount of net general assistance to be provided to the person (22 M.R.S.A. § 4316-A(2)(E)). The municipality will provide any special clothes or equipment the recipient needs to perform his or her work assignment.

**Disqualification.** Any person who either willfully fails to perform or willfully performs below average standards the work assigned by the municipality, will be ineligible for assistance for 120 days (22 M.R.S.A. § 4316-A(1)). As soon as the administrator knows that a recipient failed to fulfill the work assignment, the administrator will notify the recipient in writing that he/she is disqualified for 120 days starting from the last date of authorized assistance unless the recipient can show just cause. The burden of demonstrating a just cause failure to perform a workfare assignment falls on the workfare participant.

**Eligibility Regained.** Recipients who are disqualified from receiving assistance because they have violated the requirements of the municipal work program may regain their eligibility under the following conditions.

Recipients who fail to complete the first municipal work assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (*see section. 5.5, "Dependents"*).

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause failed to perform, the disqualified recipient will be given one opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible.

If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency. However, the provision of such emergency assistance will not bar the administrator from subsequently enforcing the previously issued 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

Recipients who have asked for the opportunity to regain their eligibility during a 120 day disqualification period and who agreed to fulfill the assignment which they previously failed to perform and who, without just cause, fail to fulfill their municipal work assignment will be considered to have acted in bad faith. In such a circumstance, the administrator will enforce the 120-day disqualification for the term of its initial duration.

If a workfare participant regains eligibility under this section but is subsequently disqualified within the initial 120-day period of ineligibility for failing to comply with the municipal work program, that participant will be ineligible for a new 120-day period beginning with the new disqualification date, but will be provided no opportunity to requalify.

Any recipient who intentionally causes damage to property, harasses or harms other employees or who otherwise conducts themselves in a disruptive manner and is discharged by the work supervisor will not be entitled to regain eligibility by returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

**Reports.** The administrator will itemize the assistance that has been provided to persons who work for the municipality in reports to the DHHS (22 M.R.S.A. § 4316-A(2)).

## Section 5.7—Use of Resources

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource that may reduce his or her need for general assistance (*see section 2.2 for definition of “Resources”*). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. § 4317).

**Minors.** A minor under the age of 18 who has never married and is applying independently for general assistance and who is pregnant or has a dependent child or children will be eligible to receive general assistance only if the minor is residing in the home of his or her parent, legal guardian or other adult relative, in which case the entire household will be evaluated for eligibility. Exceptions to this limitation on eligibility will be made when:

- 1) the minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or
- 2) the minor has no living parent or the whereabouts of the both parents are unknown; or
- 3) no parent will permit the minor to live in the parent’s home; or
- 4) the minor has lived apart from both parents for at least one year before the birth of any dependent child; or
- 5) the DHHS determines that the physical or emotional health or safety of the minor or the minor’s dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or
- 6) the DHHS determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility (22 M.R.S.A. § 4309(4)).

Any person under the age of 25 who is applying independently from his or her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his or her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his or her parents are financially capable of repaying the municipality (22 M.R.S.A. § 4319).

With regard to such application, the municipality may seek verification of the applicant's need for general assistance by contacting his or her parents. If the applicant's parents declare a willingness to provide the applicant with his or her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his or her parents for basic needs, the administrator may find the applicant not to be in need of general assistance for the reason that his or her needs can be provided by a legally liable relative.

**Mental or Physical Disability.** Any applicant who has a mental or physical disability must make a good faith effort to utilize any medical or rehabilitative services which have been recommended by a physician, psychologist or other professional retraining or rehabilitation specialist when the services are available to the applicant and would not constitute a financial burden or create a physical risk to the individual.

**Written Notice; Disqualification.** The administrator will give each applicant written notice whenever the applicant is required to utilize any specific potential resource(s). Any applicant who refuses to utilize potential resources, without just cause, after receiving written 7-day notice will be ineligible for further assistance until he/she has made a good faith effort to utilize or obtain the resources. General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

**Forfeiture of Benefits.** Any applicant who forfeits receipt of or causes a reduction in benefits from another public assistance program due to fraud, misrepresentation, a knowing or intentional violation of program rules or a refusal to comply with that program's rules without just cause will be ineligible to receive general assistance to replace the forfeited benefits. To the extent the forfeited benefits can be considered income under general assistance law, the worth of the forfeited benefits will be considered income that is available to the applicant for the duration of the forfeiture.

To the extent the forfeited benefits were provided not in the form of income but, rather, in the form of a specific, regularly issued resource of a calculable value, that resource, up to its forfeited value, need not be replaced with general assistance for a period of 120 days from the date of the forfeiture—unless the municipality is prohibited by federal or state law from considering the forfeited resource as available with respect to local public assistance programs (22 M.R.S.A. § 4317).

#### Section 5.8—Period of Ineligibility

No one will have his or her assistance terminated, reduced, or suspended prior to being given written notice and an opportunity for a fair hearing (22 M.R.S.A. §§ 4321-4322). Each person will be notified in writing of the reasons for his or her ineligibility, and any person disqualified for not complying with the ordinance will be informed in writing of the period of ineligibility.

**Work Requirement.** Applicants/recipients who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility) (*see sections 5.5, 5.6*). If an applicant/recipient is provided assistance and does not comply with the work requirement, the applicant/recipient shall be disqualified for 120 days following the end of the period covered by the grant of assistance. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of ineligibility.

**Fraud.** People who commit fraud are disqualified from receiving assistance for a period of 120 days (*see section 6.4, "Fraud"*). The administrator shall give recipients written notice that they are ineligible as soon as the administrator has sufficient knowledge and information to render a decision. If the disqualification for fraud is issued before the expiration of a grant of assistance, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of ineligibility.

#### Section 5.9 – Unemployment Fraud

An applicant who is found ineligible for unemployment compensation benefits because of a finding of fraud by the Department of Labor pursuant to 26 M.R.S.A. § 1051(1) is ineligible to receive general assistance to replace the forfeited unemployment compensation benefits for the duration of the forfeiture established by the Department of Labor. 22 M.R.S.A. § 4317.

## ARTICLE VI

### Determination of Eligibility

#### Section 6.1—Recognition of Dignity and Rights

Any determination or investigation into an applicant's eligibility will be conducted in a manner that will not violate the applicant's privacy or personal dignity or violate his or her individual rights.

#### Section 6.2—Determination; Redetermination

The administrator will make an individual, factual determination of eligibility each time a person applies or reapplies for general assistance. The administrator will make a redetermination of eligibility at least monthly but may do so as often as necessary to administer the program efficiently and meet the needs of the applicants. Upon any application, the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis, but may elect to disburse that applicant's assistance periodically, e.g., weekly, throughout a 30-day period of eligibility pursuant to that initial eligibility determination.

The administrator may redetermine a person's eligibility at any time during the period he or she is receiving assistance if the administrator is notified of any change in the recipient's circumstances that may alter the amount of assistance the recipient may receive. Once a recipient has been granted assistance, the administrator may not reduce or rescind the grant without giving prior written notice to the recipient explaining the reasons for the decision and offering the recipient an opportunity to appeal the decision to the fair hearing authority (22 M.R.S.A. § 4309).

### Section 6.3—Verification

**Eligibility of applicant; duration of eligibility.** The overseer shall determine eligibility each time a person applies or reapplies for general assistance. The period of eligibility will not exceed one month. At the expiration of this period applicants/recipients may reapply for assistance and the person's eligibility will be redetermined.

**Applicant's responsibilities.** Applicants and recipients for general assistance are responsible for providing to the overseer all information necessary to determine eligibility. If further information or documentation is necessary to demonstrate eligibility, the applicant must have the first opportunity to provide the specific information or documentation required by the overseer. When information required by the overseer is unavailable, the overseer must accept alternative available information, which is subject to verification.

Each applicant and recipient has the responsibility at the time of application and continuing thereafter to provide complete, accurate and current information and documentation concerning his/her:

- Need
- Income
- Employment
- Use of income
- Expenses
- Assets & liabilities
- Use of available resources
- Household composition

**Initial Applicants.** Persons who have not applied for assistance in this or any other municipality are considered initial applicants and must have their eligibility determined solely on the basis of need. Initial applicants are not subject to eligibility conditions placed on repeat applicants (*see below*). However, such applicants are still responsible for providing the GA administrator with reasonably obtainable documentation adequate

to verify that there is a need for assistance. In addition, initial applicants must also comply with both lump sum and relevant work rules (i.e. job quit).

**Repeat Applicants.** All applicants for general assistance that are not initial applicants are repeat applicants. The eligibility of repeat applicants must be determined on the basis of need and all other conditions of eligibility established by law and this municipal ordinance.

The administrator will require documentation of a repeat applicant's income, use of income, assets and resources plus actual bills and receipts for rent, utilities, fuel, telephone, medical services and other basic necessities. In addition, repeat applicants instructed to seek employment shall verify their work search results, e.g., provide a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted, as required by the GA administrator.

Repeat applicants are also responsible for providing any changes of information reported on previous applications including changes in his/her household or income that may affect his/her eligibility.

**Unforeseen Repeat Applicants.** Unforeseen repeat applicants are applicants who have not applied for assistance within the last twelve months and who have been regularly employed or receiving support from a public benefit or private source who have unexpectedly become unemployed through no fault of their own or whose income and/or benefits (e.g., through an available resource) have ceased through no fault of their own. Such unforeseen repeat applicants may be considered initial applicants for purposes of verification requirements and misspent income if the administrator finds that imposing the general verification requirements and misspent income rules imposed on repeat applicants would be unreasonable or inappropriate.

**Overseer's responsibilities.** In order to determine an applicant's eligibility for general assistance, the overseer first must seek information and documentation from the applicant. Once the applicant has presented the necessary information, the overseer is

responsible for determining eligibility. The overseer will seek verification necessary to determine eligibility. In order to determine eligibility, the overseer may contact sources other than the applicant for verification only with the specific knowledge and consent of the applicant, except that the overseer may examine public records without the applicant's knowledge and consent.

Appropriate sources, which the overseers may contact, include, but are not limited to:

- DHHS and any other department/agency of the state or non-profit organizations
- financial institutions
- creditors
- utility companies
- employers
- landlords
- physicians
- persons with whom the applicant/recipient is a cohabitant
- legally and non-legally liable relatives

Assistance will be denied or terminated if the applicant is unwilling to supply the overseer with necessary information, documentation, or permission to make collateral contacts, or if the overseer cannot determine that eligibility exists based on information supplied by the applicant or others.

**Redetermination of eligibility.** The overseer may redetermine a person's eligibility at any time during the period that person is receiving assistance if the overseer is informed of any change in the recipient's circumstances that may affect the amount of assistance to which the recipient is entitled or that may make the recipient ineligible, provided that once a determination of eligibility has been made for a specific time period, a reduction in assistance for that time period may not be made without prior written notice to the recipient with the reasons for the action and an opportunity for the recipient to receive a fair hearing upon the proposed change.

**Penalty for Refusing to Release Information.** Any person governed by 22 M.R.S.A. § 4314 who refuses to provide necessary information to the administrator after it has been requested must state in writing the reasons for the refusal within 3 days of receiving the request. Any such person who refuses to provide the information, without just cause, commits a civil violation and may be subject to a fine of not less than \$25 nor more than \$100 which may be adjudged in any court of competent jurisdiction. Any person who willfully renders false information to the administrator is guilty of a Class E crime (22 M.R.S.A. § § 4314(5), 4314(6), 4315).

#### Section 6.4—Fraud

It is unlawful for a person to make knowingly and willfully a false representation of a material fact to the administrator in order to receive general assistance or cause someone else to receive general assistance (22 M.R.S.A. § 4315). False representation shall consist of any individual knowingly and willfully:

- a) making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;
- b) concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or
- c) using general assistance benefits for a purpose other than that for which they were intended.

No person may be denied assistance solely for making a false representation prior to being given an opportunity for a fair hearing.

**Period of Ineligibility.** When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making

himself or herself eligible for general assistance, the administrator shall notify that applicant in writing that he or she has been disqualified from receiving assistance for 120 days. For the purpose of this section, a material misrepresentation is a false statement about eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted.

The notification of ineligibility issued by the administrator shall inform the applicant of his or her right to appeal the administrator's decision to the fair hearing authority (FHA) within 5 working days of receipt. The period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of ineligibility, whichever is later.

**Right to a Fair Hearing.** Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority (FHA) in accordance with Article VII of this ordinance. No recipient shall have his or her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the FHA may appeal that decision to the Superior Court pursuant to Rule 80-B of the Maine Rules of Civil Procedure (22 M.R.S.A. § 4309(3)).

**Reimbursement.** If a recipient does not appeal the decision or if the fair hearing authority determines that a recipient did make a false representation, the recipient will be required to reimburse the municipality for any assistance received to which he/she was not entitled.

**Dependents.** In no event will the ineligibility of a person under this section serve to disqualify any eligible dependent in that household (22 M.R.S.A. § 4309(3)). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be

calculated by dividing the maximum level of assistance available to the entire household by the total number of household members.

#### Section 6.5—Period of Eligibility

The administrator will grant assistance to all eligible persons for a period that is sufficient to meet their need but in no event may a grant of assistance cover a period in excess of one month (22 M.R.S.A. § 4309). Upon receiving a completed and signed application the administrator will determine the applicant's eligibility on the basis of a 30-day prospective analysis.

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator shall render a notice of "ineligibility" and advise the applicant that he or she has a right to reapply as soon as he or she has the necessary information and/or as soon as is practicable for the applicant.

Although eligibility is determined on a 30-day basis, for reasons of administrative efficiency the administrator may elect to disburse an applicant's assistance for shorter periods of time, such as weekly, throughout the 30-day period of eligibility. When the administrator elects to disburse general assistance for a period of time less than 30 days, subsequent grants of assistance during that 30-day period may be issued pursuant to the initial determination of need unless the applicant's financial situation changes substantially enough to warrant a redetermination of eligibility.

#### Section 6.6—Determination of Need

The period of time used to calculate need will be the next 30-day period from the date of application (22 M.R.S.A. § 4301(7)). The administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in section 6.8, whichever is less. The sum of these

expenses, as calculated for a prospective 30-day period, is the applicant's 30-day need. Applicants will not be considered eligible if their income and other resources exceed this calculation except in an emergency (22 M.R.S.A. § 4308(2)) (*see section 4.9 of this ordinance*).

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the beginning of section 6.8 (22 M.R.S.A. § § 4301(10), 4305(3-B)). The difference between the applicant's income and the overall maximum levels of assistance established by this ordinance is the applicant's deficit.

Once an applicant's deficit has been determined, the specific maximum levels of assistance for each basic necessity (*see Appendixes A-H of this ordinance*) shall be used by the administrator to guide the distribution of assistance for which the applicant is eligible. The specific maximum levels of assistance for each basic necessity are intended to be reasonable and sufficient to help recipients maintain a standard of health and decency (22 M.R.S.A. § 4305(3-A)).

**Income for Basic Necessities.** Applicants are required to use their income for basic necessities. Except for initial applicants, no applicant is eligible to receive assistance to replace income that was spent within the 30-day period prior to an application for assistance on goods and services that are not basic necessities. All income spent on goods and services that are not basic necessities will be considered available to the applicant and combined with the applicant's prospective 30-day income for the purposes of computing eligibility (22 M.R.S.A. § 4315-A). Applicants who have sufficient income to provide their basic necessities but who use that income to purchase goods or services which are not basic necessities will not be considered eligible for assistance. Persons who exhaust their income on basic necessities and who still need

assistance with other basic necessities will be eligible, provided that their income does not exceed the overall maximum level of assistance.

**Use-of-Income Requirements.** The administrator may require that anyone applying for general assistance provide documentation of his or her use of income. This documentation can take the form of cancelled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Except as is deemed appropriate by the GA administrator for “unforeseen” repeat applicants (*See Section 6.3 of this ordinance*), repeat applicants may be required to verify that expenditure of income was for basic necessities. Income expended that cannot be verified will generally be considered available and in such case will be added to the 30-day prospective income.

Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and food up to the ordinance maximums; telephone costs at the base rate if the household needs a telephone for medical reasons, the cost of nonelective medical services as recommended by a physician which are not otherwise covered by medical entitlement, Hospital Free Care or insurance; the reasonable cost of essential clothing and non-prescription drugs, and the costs of any other commodity or service determined essential by the administrator.

Items not considered to be basic necessities and thus will not be allowed in the budget computation include:

- Internet services
- Cable or satellite television
- Cellular phones
- Cigarettes/alcohol
- Gifts purchased
- Pet care costs
- Costs of trips or vacations
- Paid court fines
- Repayments of unsecured loans
- Legal fees
- Late fees
- Credit card debt.

The municipality reserves the right to apply specific use-of-income requirements to any applicant, other than an initial applicant, who fails to use his or her income for basic necessities or fails to reasonably document his or her use of income (22 M.R.S.A. § 4315-A). Those additional requirements will be applied in the following manner:

- 1) The administrator may require the applicant to use some or all of his or her income, at the time it becomes available, toward specific basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e., rent/mortgage), energy (i.e., heating fuel, electricity), or other specified basic necessities;
- 2) The administrator will notify applicants in writing of the specific use-of-income requirements placed on them;
- 3) If upon subsequent application it cannot be determined how the applicant's income was spent, or it is determined that some or all of the applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income; and
- 4) If the applicant does not spend his or her income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.

**Calculation of Income and Expenses.** When determining eligibility, the administrator will subtract the applicant's net income from the overall maximum level of assistance found at the beginning of section 6.8. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (*see section 4.9*). If income is less than the overall maximum level of assistance, the applicant has a deficit.

The municipality will provide assistance in an amount up to the deficit to the extent the applicant also has an unmet need and is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in section 6.8 of this ordinance for specific basic necessities except in an emergency or when the administrator elects to consolidate the applicant's deficit, as provided immediately below.

**Consolidation of Deficit.** As a general rule and to the extent of their deficit, applicants will be eligible for assistance for any basic necessity up to, but not exceeding, the maximum amount allowed for that necessity in this ordinance or the actual 30-day cost of the necessity, whichever is less. Under certain circumstances, however, and in accordance with the following conditions, the administrator may consolidate the applicant's deficit and apply it toward a basic necessity in an amount greater than the ordinance maximum for that necessity.

- 1) The practice of consolidating the deficit and applying it toward a basic necessity in amounts greater than the ordinance maximum shall be the exception rather than the rule;
- 2) The total general assistance grant cannot exceed the total deficit unless the applicant is in an emergency situation; and
- 3) The need for the application of the recipient's consolidated deficit toward a basic necessity was not created by the recipient mispending his or her income or resources in violation of the use-of-income requirements of this ordinance.

#### Section 6.7—Income

**Income Standards.** Applicants whose income exceeds the overall maximum level of assistance provided in section 6.8 shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time an applicant applies.

**Calculation of Income.** To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application, and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was not spent during the previous 30-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If a household's income exceeds the amount of the household's need for basic necessities, up to the maximum levels contained in section 6.8, applicants will not be considered in need.

Exceptions will be made in emergency situations, which may necessitate that the maximum levels be exceeded (22 M.R.S.A. § 4308) (*see section 4.9 of this ordinance*). To calculate weekly income and expenses, the administrator will use actual income received or actual anticipated income.

**Types of Income.** Income that will be considered in determining an applicant's need includes:

- a) **Earned income.** Income in cash or in kind earned by the applicant through wages, salary, commissions, or profit, whether self-employed or as an employee, is considered earned income. If a person is self-employed, total income will be computed by subtracting reasonable and actual business expenses from gross income. When income consists of wages, the amount computed will be the income available after taxes, social security and other payroll deductions required by state, federal, and local law. Rental income and profit from produce that is sold is considered earned income. Income that is held in trust and unavailable to the applicant or the applicant's dependents will not be considered as earned income.

Note: Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will be deducted from an applicant's income (22 M.R.S.A. § 4301(7)).

- b) **Income from Other Assistance or Social Services Programs.** State/federal categorical assistance benefits, SSI payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources will be considered as income, unless expressly prohibited by federal law or regulation. Federal law prohibits Food Stamps and fuel assistance payments made by the Home Energy Assistance Program (HEAP and EPIC) from being considered income. The value of the food stamps or fuel assistance will not be used to reduce the amount of general assistance the applicant is eligible to receive. Although applicants may have only a limited or reduced need for general assistance for heating fuel or electricity if a recently received HEAP/ECIP benefit has sufficiently credited their account or otherwise prevented the fuel-related costs for the prospective 30-day period.

The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his or her total fuel costs. Accordingly, in such cases, the administrator will budget for the household's heating energy needs according to actual usage, up to the ordinance maximums, but the administrator may, with written notice to the applicant, hold in reserve the heating energy portion of the applicant's deficit until such a time during the period of eligibility that the applicant has a demonstrable need for the disbursement of heating energy assistance; that is, the applicant's fuel tank can accept a minimum fuel delivery or the applicant no longer has a positive credit balance with his or her utility company. The municipality is not obligated to divert any recipient's heating energy allowance toward non-heating purposes solely on the basis of the recipient's receipt of HEAP/ECIP.

Other programs whose income cannot be counted for purposes of GA eligibility include:

- Family Development Accounts (22 M.R.S. § 3762)
- Americorp VISTA program benefits (42 USCS § 5044 (f))
- Property tax rebates issued under the Maine Property Tax Fairness Credit program, only so long as the money is spent on basic necessities. (22 M.R.S.A. § 4301(7))

- c) **Court-Ordered Support Payments.** Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the State Department of Health and Human Services' Child Support Enforcement Unit. In order to be eligible for future GA, applicants being referred to DHHS for such enforcement services shall be required to follow-through with such services. Because child support payments are considered a resource, applicants must make a good faith effort to secure such payments.
- d) **Income from Other Sources.** Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.A. § 4301(7)).
- e) **Earnings of a Son or Daughter.** Earned income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.
- f) **Income from Household Members.** Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool

or share their income and expenses as a family or intermingle their funds so as to provide support to one another.

- g) **The Pooling or Non-Pooling of Income.** When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income (22 M.R.S.A. § 4301(12-A)).

One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of non-pooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, cancelled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his or her pro-rata share of household costs.

If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his or her income and his or her pro-rata share of actual household expenses.

- h) **Lump Sum Income.** A lump sum payment received by any GA applicant or recipient prior or subsequent to the date of application for general assistance will be considered as income available to the household. However, verified required payments (i.e., any third party payment which is required as a condition of receiving the lump sum payment, or any payments of bills earmarked for the

purpose for which the lump sum payment was made) and any amount of the lump sum payment which the applicant can document was spent on basic necessities, as described below, will not be considered available income.

Where a household receives a lump sum payment at any time prior or subsequent to the date of application for general assistance, the administrator will assess the need for prorating an applicant's eligibility for general assistance according to the following criteria (22 M.R.S.A. § 4301(7), (8-A)):

- 1) identify the date the lump sum payment was received;
- 2) subtract from the lump sum payment all required payments;
- 3) subtract from the lump sum any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities as defined by the general assistance program such as: reasonable payment of funeral or burial expenses for a family member; any reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities. Repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid must also be subtracted. (22 M.R.S.A. § 4301(7), (8-A));
- 4) add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance; and
- 5) divide the sum created in subsection (4) by the verified actual monthly amounts for all of the household's basic necessities. 22 M.R.S.A. § 4305(3-B)

This dividend represents the period of proration determined by the administrator to commence on the date of receipt of the lump sum payment. The prorated sum for each month must be considered available to the household for 12 months from the date of application or during the period of proration, whichever is less.

The household of an initial applicant that is otherwise eligible for emergency assistance may not be denied emergency assistance to meet an immediate need solely on the basis of the proration of a lump sum payment. (22 MRSA § 4308)

#### Section 6.8—Basic Necessities; Maximum Levels of Assistance

**Overall Maximum Levels of Assistance.** Notwithstanding any of the maximum levels of assistance for specific basic necessities listed in Appendices B-H of this ordinance, an applicant's eligibility for general assistance will be first determined by subtracting his or her income from the overall maximum level of assistance designated in Appendix A for the applicable household size (22 M.R.S.A. § 4305 (3-B)). The difference yielded by this calculation shall be the applicant's deficit.

Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to section 4.9 of this ordinance.

**Maximum Levels of Assistance for Specific Basic Necessities.** The municipality will grant assistance to eligible applicants for basic necessities according to the maximum levels for specific types of assistance set forth below. The administrator, in consultation with the applicant, may apply the amount of the applicant's deficit toward assistance

with any one or combination of necessities not to exceed the total deficit. These maximum levels will be strictly adhered to unless the administrator determines that there are exceptional circumstances and an emergency is shown to exist, in which case these absolute levels will be waived in order to meet immediate needs. In all cases either the actual expenses the applicant incurs for basic necessities or the maximum amount allowed in each category, whichever is less, will be used in determining need.

In roommate situations, the applicant's need for common living expenses for rent, fuel, electricity, etc., will be presumed to be reduced by an amount equal to the other household members' proportionate fair share of the common living expenses. No applicant will be allowed to claim a need for any expense which has been or will be paid by another person. In addition, as a general rule the municipality will not provide a benefit toward a basic need by paying a bill that is issued to a person not living with the applicant's household or that has otherwise been incurred by a person who has not been found eligible to receive assistance.

Temporary exceptions to this general rule may be made by the administrator in the following circumstances: (1) a recent, unplanned separation has occurred in the household resulting in the sustained or permanent absence of a former household member in whose name the bill was customarily issued; (2) the applicant and members of the applicant's household were or will be the sole recipients of the commodities or services covered by any bill to be paid or partially paid with general assistance; and (3) the applicant will make a good faith effort to direct the vendor to issue future bills in the name of the applicant or other responsible person residing in the household.

A) **Food.** The administrator will provide food assistance to eligible persons up to the allowed maximum amounts designated by the U.S.D.A. Thrifty Food Plan for the appropriate household size.

For this purpose, the municipality hereby incorporates by reference the U.S.D.A. Thrifty Food Plan, as distributed by the Maine Department of Health and Human

Services on or about October of each year. See Appendix B of this ordinance for the current year's food maximums.

In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S.A. § 4301.7(A); 7 U.S.C. §2017(b)). The municipality will authorize vouchers to be used solely for approved food products.

The administrator will exceed the maximums when necessary for households having members with special dietary needs. The administrator may require a doctor's statement verifying there is a special dietary need requiring an expenditure for food that is greater than the ordinance maximums.

B) **Housing**. The administrator will provide assistance with rent or mortgage payments that are reasonable and/or within the allowed maximum levels. See Appendix C of this ordinance for the current year's housing maximums. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed.

**Rental Payments to Relatives.** The municipality may elect to not issue any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months and the applicant's relative(s) rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's

parents, grandparents, children, grandchildren, siblings, parent's siblings, or any of those relative's children (22 M.R.S.A. § 4319(2)).

**Rental Payments to Non-Relatives.** When applicants are living in private homes with the owner or sharing dwelling units with people who are not pooling income or who are not legally liable relatives, the amount allowed as the applicant's shelter expense will be the applicant's pro rata share of the actual, total shelter cost, up to the ordinance maximum (22 M.R.S.A. § 4301(6)).

Any housing assistance issued to a recipient in such a circumstance will be issued, whenever reasonably possible, to the landlord or property owner with the most superior interest in the property; i.e., to a landlord before a tenant, or to a mortgagee before a mortgagor.

When the municipality issues in aggregate more than \$600 in rental payments to any landlord in any calendar year, a 1099 form declaring the total amount of rental payments issued during the calendar year will be forwarded to the Internal Revenue Service (IRS) pursuant to IRS regulation (see section 6041(a) of Internal Revenue Code).

Any landlord wishing to regularly receive rental payments from the municipality on behalf of applicants renting rooms from the landlord's own residence must, at a minimum, make a good faith effort to obtain a lodging license from the Department of Health and Human Services, Division of Health Engineering, pursuant to 10-144A Code of Maine Regulations, Chapter 201, as a condition of that landlord receiving future general assistance payments on behalf of his or her tenants.

**Mortgage Payments.** In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In

making this determination, the administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing. Factors to consider in making this determination include:

- (1) the marketability of the shelter's equity;
- (2) the amount of equity;
- (3) the availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs;
- (4) the extent to which liquidation may aid the applicant's financial rehabilitation;
- (5) a comparison between the amount of mortgage obligations and the anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing;
- (6) the imminence of the applicant's dislocation from owned housing because of his or her inability to meet the mortgage payments;
- (7) the likelihood that the provision of housing assistance will prevent such dislocation; and
- (8) the applicant's age, health, and social situation.

These factors shall be considered when determining whether the equity in the shelter is an available asset which may be substituted for the assistance the municipality would otherwise be required to provide.

The administrator shall consider issuing a benefit in response to the applicant's request for mortgage assistance to the extent the applicant is otherwise eligible for general assistance if after reviewing the above criteria the administrator determines that:

- (1) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size;
- (2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or reamortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and
- (3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property.

If a mortgage payment is necessary, the administrator will pay the actual amount due, up to the amount allowed according to the maximum levels listed below. After an initial application, assistance with such payments will be given only after the applicant has made all reasonable efforts to borrow against the equity of his or her home. If there is not sufficient equity in the home with which to secure a loan, and if the monthly mortgage payments are not realistically in line with the rental rates for similar housing in the area that could meet the applicant's needs, the administrator will inform the applicant that he/she is responsible for finding alternative housing within his or her ability to pay and will be obligated to make all reasonable efforts to secure such housing.

**Liens.** The municipality may place a lien on the property in order to recover its costs of granting assistance with mortgage payments. In addition, a municipality may claim a lien against the owner of real estate for the amount of money spent by it to make capital improvements to the real estate (22 M.R.S.A. § 4320). No lien may be enforced against a recipient except upon his or her death or the transfer of the property. Further, no lien may be enforced against a person who is currently receiving any form of public assistance, or who would again become eligible for general assistance if the lien were enforced.

If the municipality determines that it is appropriate to place a lien on a person's property to recover its costs of providing general assistance for a mortgage payment or capital improvement it must file a notice of the lien with the county registry of deeds where the property is located within 30 days of making the mortgage payment. That filing shall secure the municipality's or the state's interest in an amount equal to the sum of that mortgage or capital improvement payment and all subsequent mortgage or capital improvement payments made on behalf of the same eligible person, plus interest and costs.

Not less than 10 days prior to filing the lien in the registry, the municipal officers must send notice to the owner of the real estate, the general assistance recipient, and any record holder of the mortgage by certified mail, return receipt requested, that a lien on the property is going to be filed with the registry. This notice must clearly inform the recipient of the limitations upon enforcement plus the name, title, address and telephone number of the person who granted the assistance. The municipal officers must also give written notice to the recipient each time the amount secured by the lien is increased because of an additional mortgage payment. This notice must include the same information that appeared on the original intent-to-file notice sent to the recipient.

The municipality may charge interest on the amount of money secured by the lien. The municipal officers will establish the interest rate not to exceed the maximum rate of interest allowed by the State Treasurer to be charged against delinquent taxes. The interest will accrue from the date the lien is filed.

**Property Taxes.** In the event an applicant requests assistance with his or her property taxes, the administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process (36 M.S.R.A. § 841(2)) and General Assistance. If the applicant chooses to seek

property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

- a) the property tax in question is for the applicant's place of residence;
- b) there is a tax lien on the property which is due to mature within 60 days of the date of application;
- c) as a matter of municipal policy or practice, or on the basis of information obtained from the applicant's mortgagee, if any, it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and
- d) the applicant, with sufficient notice, applies for property tax relief through the Maine Property Tax Fairness Credit program, when available.

**Housing Maximums.** The maximum levels of housing assistance contained in this ordinance have been derived either from a locally accomplished fair market rental survey or the fair market rental values developed by the United States Department of Housing and Urban Development (HUD). If the maximum levels of housing are derived from the HUD values made effective as of every October 1, and adjusted to disregard the current and averaged utility allowances as developed by the Maine State Housing Authority, those levels are hereby incorporated by reference. See Appendix C of this ordinance for the current year's housing maximums.

If and when the maximum levels of housing contained in this ordinance are derived from a locally developed fair market rental survey, a record of that survey will be submitted to the DHHS, General Assistance Unit, and the maximum levels of housing assistance will be incorporated into this ordinance pursuant to the ordinance adoption and amendment procedures found at 22 M.R.S.A. § 4305.

C) **Utilities.** Expenses for lights, cooking, and hot water will be budgeted separately if they are not included in the rent. Applicants are responsible for making arrangements with the utility company regarding service, including entering into a special payment arrangement if necessary.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to section 4.9.

Disconnection of utility service will not be considered an emergency in all cases. The administrator will make an individual, factual analysis to determine if the termination of utility service constitutes an emergency. The administrator will consider the household composition, the time of year, the age and health of the household members, and other appropriate factors in reaching a decision. Applicants who had sufficient income, money, assets or other resources to pay their utility bill when it was received, but who spent all or part of their income on items which were not basic necessities, will not be eligible to receive general assistance to replace those funds.

Applicants have the burden of providing evidence of their income and use of income for the applicable time period (22 M.R.S.A. § 4308(2)) (*see section 4.9 and 6.3*). The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

**Electricity Maximums for Households Without Electric Hot Water.** See Appendix D of this ordinance for the current year's electricity maximums.

**Electricity Maximums for Households that Use Electrically Heated Hot Water.** See Appendix D of this ordinance for the current year's electricity maximums.

**Non-Electric Utilities.** The allowed amount for water and sewer utility service will be budgeted at a 30-day reasonable usage rate.

- D) **Fuel.** Expenses for home heating will be budgeted according to the actual need for fuel during the heating season (September through May) provided such expenses are reasonable, and at other times during the year when the administrator determines the request for fuel assistance is reasonable and appropriate.

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in section 4.9. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicants' control, and process the emergency request accordingly, pursuant to section 4.9 of this ordinance.

See Appendix E of this ordinance for the current year's fuel maximums.

- E) **Personal Care and Household Supplies.** Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags light bulbs and supplies for children under

5 years of age. See Appendix F of this ordinance for the current year's personal care and household supplies maximums.

F) **Other Basic Necessities**. Expenses falling under this section will be granted when they are deemed essential to an applicant's or recipient's health and safety by the general assistance administrator and, in some cases, upon verification by a physician. Assistance will be granted only when these necessities cannot be obtained through the utilization of available resources.

- 1) **Clothing**. The municipality may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire, flood or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or a household member is without adequate clothing.
- 2) **Medical**. The municipality will pay for essential medical expenses, other than hospital bills (*see below*), provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments, or services that are determined to be 'medically necessary' by a licensed physician. The municipality will grant assistance for medical services only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his or her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential.

Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

Generally, the municipality will issue general assistance at the established Medicaid rates for all medical services, prescriptions, or other medical commodities. Before authorizing general assistance for any medical expenses, the administrator will inform the pharmacy or medical service provider of the municipality's intention to pay for the medical service at the Medicaid rate, and ask to be billed accordingly.

Ordinary medical supplies/non-prescription drugs will be budgeted at the actual amount when the applicant can demonstrate a need for such items. Allowable supplies include bandages, aspirin, cough syrup, and other generic brand, non-prescription medicines. In addition, the basic monthly rate for telephone service will be budgeted when a telephone is essential to the health and safety of the household. In order for telephone service to be considered an allowable expense the applicant must provide a written statement from a physician certifying that the telephone is essential.

- 3) **Hospital Bills.** In the event of an emergency admission to the hospital, the hospital must notify the administrator within 5 business days of the admission. Notification must be by telephone, confirmed by certified mail, or by certified mail only. If a hospital fails to give timely notice to the administrator, the municipality will have no obligation to pay the bill.

Any person who cannot pay his or her hospital bill must apply to the hospital for consideration under the Hospital's Free Care Program as provided in Title 22 M.R.S.A. § 1716. Anyone who is not eligible for the hospital's free care program may apply for general assistance. Applicants must apply for

assistance within 30 days of being discharged from the hospital and provide a notice from the hospital certifying that they are not eligible for the hospital's free care program.

Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at section 6.6 of this ordinance.

- 4) **Dental.** The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.
- 5) **Eye Care.** In order to be eligible to receive general assistance for eyeglasses, an applicant must have his or her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide

assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources and generally only at the Medicaid rate.

- 6) **Telephone Charge.** A payment for basic telephone will only be allowed if a telephone is necessary for medical reasons as verified by a physician. At the discretion of the GA administrator, minimum/basic telephone services may be allowed for households with children, for households where job search or job related reasons exist and/or for any other reasons the administrator deems necessary.
- 7) **Work-Related Expenses.** In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include childcare costs, work clothes, supplies and transportation at the actual costs not to exceed the ordinance maximum (*see Appendix G for this year's maximum mileage allotment*). The applicant is required to provide documentation substantiating the costs and that the expenses were necessary.
- 8) **Travel Expenses.** In determining need, necessary travel which is not work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. For applicants in rural areas, weekly transportation to a supermarket will be considered, as will any medically necessary travel. See Appendix G for the current rate at which such necessary travel will be budgeted. This rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.
- 9) **Burials, Cremations.** Under the circumstances and in accordance with the procedures and limitations described below (*see section 6.9*), the municipality recognizes its responsibility to pay for the burial or cremation of eligible persons. See Appendix H for the current maximums.

10) **Capital Improvements.** The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when:

- 1) the failure to do so would place the applicant(s) in emergency circumstances;
- 2) there are no other resources available to effect the capital repair; and
- 3) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation.

In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.A. § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished in the same manner as for mortgage payments, as described in subsection (B) “Liens”, above.

#### Section 6.9—Burials; Cremations

**Funeral Director Must Give Timely Notice.** In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of three business days following the funeral director’ receipt of the body, whichever is earlier (22 M.R.S.A. §4313(2)). This contact by the funeral director shall begin the process of developing an application for

burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

**Application for Assistance Shall be Calculated on Behalf of the Deceased.** For the purposes of determining residency, calculating eligibility and issuing general assistance for burial or cremation purposes, an application for assistance shall be completed by the administrator on behalf of the deceased.

With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under section 4.10 of this ordinance.

Although legally liable relatives may be asked to provide information regarding their income, assets, and basic living expenses, that information will not be construed as an application for general assistance inasmuch as living persons are not eligible for burial assistance. To clarify this point of law, although legally liable relatives have a financial responsibility to pay for the burial or cremation of their relatives, that financial responsibility only exists to the extent the legally liable relatives have a financial capacity to do so. Therefore, legally liable relatives who are eligible for general assistance, by virtue of their eligibility, have no legal obligation to pay for the burial or cremation of their relatives. For these reasons, all general assistance issued for burial or cremation purposes shall be issued on behalf of, and in the name of, the deceased.

**The Financial Responsibility of Certain Family Members.** Grandparents, parents, children and grandchildren of the deceased, who live in Maine or own property in Maine,

are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with any reasonably requested information regarding their income, assets, and basic living expenses.

**Consideration of the Financial Responsibility of Family Members.** Generally, when the administrator can make a finding that one or more of the deceased's legally liable relatives have an obvious and demonstrable financial capacity to pay for the burial or cremation, by lump sum payment or by means of a reasonable payment arrangement, the municipality will not grant the requested burial or cremation assistance. When the administrator is unable to make such a finding, the following proration of familial responsibility will be implemented.

**Proration of Familial Responsibility.** A proration of familial financial responsibility will be used when no legally liable relative possesses an obvious and demonstrable capacity to pay for the burial or cremation, but one or more of the financially liable relatives is found to have a financial capacity to make a partial financial contribution, or the administrator is unable to determine the financial capacity of one or more of said relatives.

Under these circumstances, each legally liable relative is considered to be responsible for his or her pro rata share of the total municipal contribution that would exist if no legally liable relatives had a financial capacity to contribute. Furthermore, and as long as all other eligibility factors have been satisfied, the municipality will provide as a burial or cremation benefit the aggregate of all pro rata shares less the share of any legally liable relative who refuses to cooperate with the administrator by providing information or documentation reasonably necessary to determine that relative's financial capacity, and less any share or part of a share attributable to a legally liable relative who can

financially contribute or partially contribute toward the burial or cremation to the extent of that relative's share.

**Eight Days to Determine Eligibility.** The administrator may take up to 8 days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The 8-day eligibility determination period from the date of contact by the funeral director shall be used as necessary to make third-party collateral contacts, verify the listing of legally liable family members and determine their respective financial capacities to contribute to the burial or cremation, contact the personal representative of the deceased's estate, if any, and other related administrative tasks. The administrator shall not use this 8-day period allowed by law to unreasonably delay the municipality's decision.

**The Municipal Obligation to Pay When Legally Liable Relatives or Others Can Contribute.** The figures provided in this section are the maximum benefits provided by the municipality when no contributions toward the burial or cremation are available from any other source. To the extent any legally liable relatives of the deceased have a financial capacity to pay for the burial or cremation, that financial capacity shall be deducted from the maximum burial costs allowed by this section. In addition, any other benefits or resources that are available, such as Social Security burial benefits, veterans' burial benefits, or contributions from other persons, will be deducted from the maximum amount the municipality will pay, except there will be no deduction from the municipal benefit level with respect to any contribution provided for the purpose of publishing an obituary notice up to an aggregate contribution limit for this purpose of \$75 when a paid receipt demonstrating the purchase of an obituary notice is provided to the administrator.

**Burial Expenses.** The administrator will respect the wishes of family members with regard to whether the deceased is interred by means of burial or cremated. See Appendix H for the maximum levels of assistance granted for the purpose of burials.

**Cremation Expenses.** In the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator may issue general assistance for cremation services. See Appendix H for the maximum levels of assistance granted for the purpose of cremations.

Section 6.10—Notice of Decision

**Written Decision.** The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving a completed and signed application (22 M.R.S.A. § 4305(3)) (*see Article IV, section 4.6*).

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator may decide to render a notice of “ineligibility” and provide the applicant with another application to submit as soon as is practicable for the applicant.

In order to ensure that applicants understand their rights, it is the responsibility of the general assistance administrator to explain the applicants’ right to a fair hearing in the written notice of decision.

**Contents.** After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. In addition to the contents of a written decision listed in section 4.6 of this ordinance, the notice will state that applicants:

- a) have the right to a fair hearing and the method by which they may obtain a fair hearing and;

- b) have the right to contact the DHHS if they believe the municipality has violated the law. The decision will state the method for notifying the department.

**Disbursement of General Assistance.** Except when determined impractical by the administrator, all general assistance will be provided in the form of a voucher or purchase order payable to a vendor or through direct municipal payment to a provider of goods or services. General assistance will not be issued in the form of a cash payment to an applicant unless there is no alternative to making such a cash payment, in which case the administrator shall document the circumstances for issuing general assistance in the form of cash (22 M.R.S.A. § 4305(6)).

## ARTICLE VII

### The Fair Hearing

#### Section 7.1—Right to a Fair Hearing

Within 5 working days of receiving a written notice of denial, reduction or termination of assistance, or within 10 working days after any other act or failure to act, the applicant or his or her authorized representative has the right to request a fair hearing (22 M.R.S.A. § 4322). The right to review a decision of the general assistance administrator is a basic right of the applicant to a full evidentiary hearing and is not limited solely to a review of the decision.

#### Section 7.2—Method of Obtaining a Fair Hearing

Upon receiving notification of the decision of the general assistance administrator, all claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance administrator. If the client is satisfied with the adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

**Written Request.** To obtain a fair hearing, the claimant, or his or her authorized representative, must make a written request within 5 working days of receiving the administrator's decision to grant, deny, reduce or terminate assistance, or within 10 working days after any other act or failure to act. The administrator will make available a printed form for requesting a fair hearing and will assist the claimant in completing it if necessary. On the printed form, the claimant will give the following information:

- a) the decision on which review is sought;
- b) the reason(s) for the claimant's dissatisfaction and why the claimant believes he/she is eligible to receive assistance; and

- c) the relief sought by the claimant.

The administrator cannot deny or dismiss a request for a hearing unless it has been withdrawn (in writing) by the claimant.

**Scheduling the Fair Hearing.** Upon receipt of the completed written request the fair hearing authority must meet and hold the hearing within 5 working days. The administrator will notify the claimant in writing when and where the hearing will be held (22 M.R.S.A. § 4322). In addition to the date, time and place of the hearing, the notice of fair hearing sent to the claimant shall include, at a minimum, the claimant's rights to:

- a) be his or her own spokesperson at the fair hearing, or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense;
- b) confront and cross-examine any witnesses presented at the hearing against the claimant; and
- c) present witnesses on his or her own behalf.

Arrangements for the date, time, and place of the hearing will take into consideration the convenience of the claimant and hearing authority. The claimant will be given timely notice to allow for preparation and will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case.

### Section 7.3—The Fair Hearing Authority

The municipal officers will appoint a fair hearing authority (FHA) that will determine, based on all the evidence presented at the fair hearing, whether the claimant(s) were eligible to receive assistance at the time they applied for GA. The FHA is charged with the responsibility of ensuring that general assistance is administered in accordance with the state law and local ordinance.

The fair hearing authority may consist of the municipal officers, one or more persons appointed by the municipal officers to act as the FHA , or, if designated, the board of appeals created under 30-A M.R.S.A. § 2691 (22 M.R.S.A. § 4322). In determining the organization of the fair hearing authority, the municipal officers will use the following criteria. The person(s) serving as FHA must:

- a) not have participated in the decision which is the subject of the appeal;
- b) be impartial;
- c) be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination; and
- d) be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear, or inadequate policies, practices or actions.

#### Section 7.4—Fair Hearing Procedure

When a claimant requesting a fair hearing is notified of the date, time, and place of the hearing in writing, he/she will also be given adequate preliminary information about the hearing procedure to allow for effective preparation of his or her case. The claimant shall be permitted to review his or her file prior to the hearing. At a minimum, the claimant will be told the following information, which will govern all fair hearings. All fair hearings will:

- a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his or her agents, counsel and witnesses;
- b) be opened with a presentation of the issue by the fair hearing authority;
- c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;

- d) allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;
- e) give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses presented at the hearing; and examine all evidence presented at the hearing;
- f) result in a decision, based exclusively on evidence or testimony presented at the hearing; and
- g) be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or his or her representative. The claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

The fair hearing authority shall admit all evidence if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs (22 M.R.S.A. § 4322).

**Claimant's Failure to Appear.** In the event the claimant fails to appear, the FHA will send a written notice to the claimant that the GA administrator's decision was not altered due to the claimant's failure to appear. Furthermore, the notice shall indicate that the claimant has 5 working days from receipt of the notice to submit to the GA administrator information demonstrating "just cause," for failing to appear.

For the purposes of a claimant's failure to appear at a fair hearing, examples of "just cause" include:

- a) a death or serious illness in the family;

- b) a personal illness which reasonably prevents the party from attending the hearing;
- c) an emergency or unforeseen event which reasonably prevents the party from attending the hearing;
- d) an obligation or responsibility which a reasonable person in the conduct of his or her affairs could reasonably conclude takes precedence over the attendance at the hearing; or
- e) lack of receipt of adequate or timely notice; excusable neglect, excusable inadvertence, or excusable mistake.

If the claimant (or their attorney) establishes just cause, the request for the hearing will be reinstated and a hearing rescheduled.

In the event a claimant who is represented by legal counsel fails to appear at a fair hearing, legal counsel shall not testify in place of the claimant on matters of 'fact' but may cross examine witnesses and make 'legal' arguments on behalf of the claimant.

#### Section 7.5—The Fair Hearing Decision

The decision of the fair hearing authority will be binding on the general assistance administrator, and will be communicated in writing to the claimant within 5 working days after completion of the hearing. Written notice of the decision will contain the following:

- a) a statement of the issue;
- b) relevant facts brought out at the hearing;
- c) pertinent provisions in the law or general assistance ordinance related to the decision; and
- d) the decision and the reasons for it.

A copy of the notice of the decision will be given to the claimant. The hearing record and the case record will be maintained by the general assistance administrator.

The written notice of the decision will state that if the claimant is dissatisfied with the fair hearing decision, he/she has a further legal right to appeal the decision pursuant to the Maine Rules of Civil Procedure, Rule 80B. To take advantage of this right, the claimant must file a petition for review with the Superior Court within 30 days of receipt of the fair hearing decision.

When the decision by the fair hearing authority or court authorizes assistance to the claimant, the assistance will be provided within 24 hours.

## ARTICLE VIII

### Recovery of Expenses

**Recipients.** The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his or her executors or administrators in a civil action. However, prior to recovering assistance granted, the municipality shall “offset” the value of any workfare performed by a GA recipient, at a rate not less than minimum wage.

Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S.A. § 4318).

**Recipients Anticipating Workers' Compensation Benefits.** The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the Workers' Compensation Act or similar law of any other state (22 M.R.S.A. § 4318, 39-A M.R.S.A. § 106). After issuing any general assistance on behalf of a recipient who has applied for or is receiving Workers' Compensation, the municipality shall file a notice of the municipal lien with the general assistance recipient and the Office of Secretary of State, Uniform Commercial Code division.

The notice of lien shall be filed on a UCC-1 form which must be signed by the recipient of general assistance who has applied for or is receiving Workers' Compensation. Any general assistance applicant who has applied for or who is receiving Workers' Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he or she provides the required

signature. The municipality shall also send a photocopy of that filing to the recipient's Worker's Compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the administrator's discretion, to the Workers' Compensation Board. The lien shall be enforced at the time any lump sum Workers' Compensation benefit is issued.

**Recipients of SSI.** All applicants who receive general assistance while receipt of their Supplemental Security Income (SSI) assistance is pending or suspended, and which therefore may be retroactively issued to the applicant at a later date, will be required to sign a statement on an Interim Assistance Agreement form distributed by the DHHS that authorizes the Social Security Administration to direct a portion of any retroactive SSI payment to the municipality and/or the state in repayment for the general assistance granted. Any general assistance applicant who has applied for or who may be applying for SSI, or who may be required to apply for SSI pursuant to 22 M.R.S.A. § 4317, and who refuses to sign the Interim Agreement SSI authorization form will be found ineligible to receive general assistance until he or she provides the required signature (22 M.R.S.A. § 4318).

**Relatives.** The spouse of an applicant, and the parents of any applicant under the age of 25, are liable for the support of the applicant (22 M.R.S.A. § 4319). In addition, grandchildren, children, parents and grandparents are liable for the burial costs of each other. The municipality considers these relatives to be available resources and liable for the support of their relatives in proportion to their respective ability. The municipality may complain to any court of competent jurisdiction to recover any expenses made on the behalf of a recipient if the relatives fail to fulfill their responsibility (22 M.R.S.A. § 4319).

## ARTICLE IX

### **Severability**

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

## GA Overall Maximums

### Metropolitan Areas

#### Persons in Household

COUNTY	1	2	3	4	5*
<b>Bangor HMFA:</b> Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	579	669	845	1,061	1,223
<b>Penobscot County HMFA:</b> Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	576	576	690	874	1,056
<b>Lewiston/Auburn MSA:</b> Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	529	626	818	1,031	1,094
<b>Portland HMFA:</b> Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	750	888	1,148	1,444	1,546
<b>York/Kittery/S.Berwick HMFA:</b> Berwick, Eliot, Kittery, South Berwick, York	936	939	1,123	1,635	1,779
<b>Cumberland County HMFA:</b> Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	623	731	941	1,244	1,483

COUNTY	1	2	3	4	5*
<b>Sagadahoc HMFA:</b> Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	742	742	887	1,117	1,533
<b>York County HMFA:</b> Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells	678	704	891	1,191	1,233

\*Note: Add \$68 for each additional person.

### Non-Metropolitan Areas

#### Persons in Household

COUNTY	1	2	3	4	5*
<b>Aroostook County</b>	506	539	644	840	929
<b>Franklin County</b>	555	585	711	856	1,217
<b>Hancock County</b>	594	683	842	1,116	1,146
<b>Kennebec County</b>	507	587	750	952	1,015
<b>Knox County</b>	698	709	865	1,110	1,259
<b>Lincoln County</b>	649	717	904	1,126	1,208
<b>Oxford County</b>	543	602	726	979	1,268
<b>Piscataquis County</b>	564	641	791	1,004	1,073
<b>Somerset County</b>	573	600	715	972	988
<b>Waldo County</b>	633	677	815	1,014	1,078
<b>Washington County</b>	544	585	697	863	1,045

\* Please Note: Add \$68 for each additional person.

**Appendix B**  
Effective: 10/01/13 to 09/30/14

## Food Maximums

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. Through September 30, 2014, those amounts are:

<b>Number in Household</b>	<b>Weekly Maximum</b>	<b>Monthly Maximum</b>
1	46.51	200
2	85.35	367
3	122.33	526
4	155.35	668
5	184.42	793
6	221.40	952
7	244.65	1,052
8	279.53	1,202

**Note: For each additional person add \$150 per month.**

## **GA Housing Maximums (Heated & Unheated Rents)**

**NOTE: NOT ALL MUNICIPALITIES SHOULD ADOPT THESE SUGGESTED HOUSING MAXIMUMS!** Municipalities should ONLY **consider** adopting the following numbers, if these figures are consistent with local rent values. If not, a market survey should be conducted and the figures should be altered accordingly. The results of any such survey must be presented to DHHS prior to adoption. **Or**, no housing maximums should be adopted and eligibility should be analyzed in terms of the Overall Maximum—Appendix A. (*See Instruction Memo for further guidance.*)

## Non-Metropolitan FMR Areas

<u>Aroostook County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	82	353	106	455
1	82	353	107	460
2	93	401	130	558
3	120	514	166	714
4	124	535	181	777
<u>Franklin County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	95	408	117	505
1	97	418	121	520
2	114	491	144	620
3	135	579	181	779
4	206	887	263	1,129
<u>Hancock County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	105	451	124	533
1	117	503	140	602
2	145	622	180	775
3	197	845	240	1,031
4	197	845	241	1,035
<u>Kennebec County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	83	359	106	454
1	94	404	123	527
2	123	529	159	682
3	159	685	200	862
4	159	685	212	911

**Non-Metropolitan FMR Areas**

<b><u>Knox County</u></b>		<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	128	552	150	647	
1	128	552	150	643	
2	150	645	186	798	
3	197	846	240	1,032	
4	209	899	252	1,083	
<b><u>Lincoln County</u></b>		<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	119	513	132	568	
1	124	535	145	622	
2	159	684	195	837	
3	200	862	244	1,048	
4	207	889	260	1,118	
<b><u>Oxford County</u></b>		<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	89	382	114	490	
1	101	434	120	516	
2	113	487	153	657	
3	161	693	209	900	
4	216	928	274	1,179	
<b><u>Piscataquis County</u></b>		<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	96	413	111	479	
1	103	441	125	539	
2	123	527	154	663	
3	157	675	196	844	
4	157	675	205	881	
<b><u>Somerset County</u></b>		<b><u>Unheated</u></b>		<b><u>Heated</u></b>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	94	405	122	523	
1	94	405	126	542	
2	107	459	151	650	
3	164	703	209	899	
4	164	703	209	899	

### Non-Metropolitan FMR Areas

<u>Waldo County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	116	497	128	552	
1	119	510	136	583	
2	139	597	162	698	
3	174	749	217	935	
4	176	758	230	987	

<u>Washington County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	93	402	108	463	
1	95	410	118	507	
2	108	465	141	607	
3	134	575	182	782	
4	163	703	222	954	

### Metropolitan FMR Areas

<u>Bangor HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	100	432	123	527	
1	113	487	142	610	
2	145	625	181	778	
3	183	789	227	975	
4	210	904	263	1,133	

<u>Penobscot County HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	99	424	114	491	
1	99	424	114	491	
2	100	429	131	565	
3	136	587	172	741	
4	155	668	214	919	

<u>Lewiston/Auburn MSA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Monthly
0	89	381	111	476	
1	103	445	132	566	
2	139	597	174	750	
3	178	766	221	952	
4	180	774	233	1,003	

## Metropolitan FMR Areas

<b><u>Portland HMFA</u></b>					
	<b><u>Unheated</u></b>		<b><u>Heated</u></b>		
Bedrooms	Weekly	Monthly	Weekly	Monthly	
0	142	611	154	666	
1	166	715	183	788	
2	214	922	238	1023	
3	271	1165	300	1292	
4	274	1180	318	1367	
<b><u>York/Kittery/S. Berwick HMFA</u></b>					
	<b><u>Unheated</u></b>		<b><u>Heated</u></b>		
Bedrooms	Weekly	Monthly	Weekly	Monthly	
0	170	729	182	784	
1	170	729	182	784	
2	191	823	221	949	
3	289	1241	318	1368	
4	300	1289	343	1473	
<b><u>Cumberland County HMFA</u></b>					
	<b><u>Unheated</u></b>		<b><u>Heated</u></b>		
Bedrooms	Weekly	Monthly	Weekly	Monthly	
0	111	479	124	534	
1	131	563	148	636	
2	167	720	119	821	
3	228	982	259	1115	
4	271	1167	308	1326	
<b><u>Sagadahoc County HMFA</u></b>					
	<b><u>Unheated</u></b>		<b><u>Heated</u></b>		
Bedrooms	Weekly	Monthly	Weekly	Monthly	
0	140	603	153	658	
1	140	603	153	658	
2	155	667	179	768	
3	186	798	228	976	
4	271	1167	314	1351	
<b><u>York County HMFA</u></b>					
	<b><u>Unheated</u></b>		<b><u>Heated</u></b>		
Bedrooms	Weekly	Monthly	Weekly	Monthly	
0	126	541	139	596	
1	126	541	147	633	
2	156	672	188	810	
3	216	928	259	1,114	
4	216	928	266	1,143	

## Appendix D

Effective: 10/01/13 to 09/30/14

### APPENDIX D - UTILITIES

#### ELECTRIC

**NOTE:** For an electrically heated dwelling also see “Heating Fuel” maximums below. But remember, an applicant is *not automatically* entitled to the “maximums” established—applicants must demonstrate need.

1) **Electricity Maximums for Households Without Electric Hot Water:** The maximum amounts allowed for utilities, for lights, cooking and other electric uses *excluding* electric hot water and heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.20	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

**NOTE:** For each additional person add \$7.50 per month.

2) **Electricity Maximums for Households With Electrically Heated Hot Water:** The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses *excluding* heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$19.10	\$82.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$37.30	\$160.00
6	\$41.00	\$176.00

**NOTE:** For each additional person add \$10.00 per month.

**NOTE:** For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum for heating fuel as provided below.

**Appendix E**  
Effective: 10/01/13 to 09/30/14

**APPENDIX E - HEATING FUEL**

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

**NOTE:** When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

**APPENDIX F - PERSONAL CARE & HOUSEHOLD SUPPLIES**

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

**NOTE:** For each additional person add \$1.25 per week or \$5.00 per month.

**SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5**

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<u>Number of Children</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

## Appendix G

### Mileage Rate

This municipality adopts the State of Maine travel expense reimbursement rate as set by the Office of the State Controller. The current rate for approved employment and necessary medical travel etc. is 44 cents (44¢) per mile.

Please refer to the Office of State Controller for changes to this rate: Telephone: 626-8420 or visit: <http://www.state.me.us/osc/>

## **Funeral Maximums**

### **Burial Maximums**

The maximum amount of general assistance granted for the purpose of burial is **\$1,125**. Additional costs may be allowed by the GA administrator, where there is an actual cost, for:

- the wholesale cost of a cement liner if the cemetery by-laws require one;
- the opening and closing of the grave site; and
- a lot in the least expensive section of the cemetery. If the municipality is able to provide a cemetery lot in a municipally owned cemetery or in a cemetery under municipal control, the cost of the cemetery lot in any other cemetery will not be paid by the municipality.

The municipality's obligation to provide funds for burial purposes is limited to a reasonable calculation of the funeral director's direct costs, not to exceed the maximum amounts of assistance described in this section. Allowable burial expenses are limited to:

- removal of the body from a local residence or institution
- a secured death certificate or obituary
- embalming
- a minimum casket
- a reasonable cost for necessary transportation
- other reasonable and necessary specified direct costs, as itemized by the funeral director and approved by the municipal administrator.

### **Cremation Maximums**

The maximum amount of assistance granted for a cremation shall be **\$785**. Additional costs may be allowed by the GA administrator where there is an actual cost, for:

- a cremation lot in the least expensive section of the cemetery
- a reasonable cost for a burial urn not to exceed \$50
- transportation costs borne by the funeral director at a reasonable rate per mile for transporting the remains to and from the cremation facility.

## Appendix I

### 26 MRSA §1043 (23)

**Misconduct.** “Misconduct” means a culpable breach of the employee’s duties or obligations to the employer or a pattern of irresponsible behavior, which in either case manifests a disregard for a material interest of the employer. This definition relates only to an employee’s entitlement to benefits and does not preclude an employer from discharging an employee for actions that are not included in this definition of misconduct. A finding that an employee has not engaged in misconduct for purposes of this chapter may not be used as evidence that the employer lacked justification for discharge. [1999, c. 464, §2 (rpr).]

A. The following acts or omissions are presumed to manifest a disregard for a material interest of the employer. If a culpable breach or a pattern of irresponsible behavior is shown, these actions or omissions constitute “misconduct” as defined in this subsection. This does not preclude other acts or omissions from being considered to manifest a disregard for a material interest of the employer. The acts or omissions included in the presumption are the following:

- (1) Refusal, knowing failure or recurring neglect to perform reasonable and proper duties assigned by the employer;
- (2) Unreasonable violation of rules that are reasonably imposed and communicated and equitably enforced;
- (3) Unreasonable violation of rules that should be inferred to exist from common knowledge or from the nature of the employment;
- (4) Failure to exercise due care for punctuality or attendance after warnings;
- (5) Providing false information on material issues relating to the employee’s eligibility to do the work or false information or dishonesty that may substantially jeopardize a material interest of the employer;
- (6) Intoxication while on duty or when reporting to work or unauthorized use of alcohol while on duty;
- (7) Using illegal drugs or being under the influence of such drugs while on duty or when reporting to work;
- (8) Unauthorized sleeping while on duty;
- (9) Insubordination or refusal without good cause to follow reasonable and proper instructions from the employer;
- (10) Abusive or assaultive behavior while on duty, except as necessary for self-defense;
- (11) Destruction or theft of things valuable to the employer or another employee;
- (12) Substantially endangering the safety of the employee, coworkers, customers or members of the public while on duty;
- (13) Conviction of a crime in connection with the employment or a crime that reflects adversely on the employee’s qualifications to perform the work; or
- (14) Absence for more than 2 work days due to incarceration for conviction of a crime.

## Appendix I

[1999, c. 464, §2 (new).]

B. "Misconduct" may not be found solely on:

- (1) An isolated error in judgment or a failure to perform satisfactorily when the employee has made a good faith effort to perform the duties assigned;
- (2) Absenteeism caused by illness of the employee or an immediate family member if the employee made reasonable efforts to give notice of the absence and to comply with the employer's notification rules and policies; or
- (3) Actions taken by the employee that were necessary to protect the employee or an immediate family member from domestic violence if the employee made all reasonable efforts to preserve the employment.

[1999, c. 464, §2 (new).]



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

Date Submitted: 12/5/14	Type of Action:
Date Action Requested: 12/8/14	<input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action
Regular <input checked="" type="checkbox"/> Work Session <input type="checkbox"/>	<input type="checkbox"/> Other: _____
Subject: To review draft amendments to be included for the May 2015 General Referendum.	

TO: BOARD OF SELECTMEN
FROM: Dylan Smith, York Town Planner
RECOMMENDATION: To provide comment regarding draft zoning amendments (to date) for Planning Board consideration.
PROPOSED MOTION: N/A

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**Discussion:** It is anticipated that additional zoning amendments will be reviewed and considered with the Planning Board including but not limited to; changing the definition of variance, reviewing a zoning change proposal to the Motel/Hotel use within the RES-2 district as well as reviewing the fine schedule (\$) per changes that have occurred within the Maine court system.

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FISCAL IMPACT:N/A
DEPARTMENT LINE ITEM ACCOUNT:N/A
BALANCE IN LINE ITEM IF APPROVED: N/A

Prepared By: D. J. Hutch

Reviewed By: [Signature]

# **Proposed Amendments**

to be considered at the

## **May 2015 Special General Referendum**

### Amendment

1. Artisanal Food and Beverage Ordinance
2. Elimination of the Sunset Clause Regarding Outside Display Along Route 1
3. Sign Standards (Digital Displays throughout Town)
4. Match Density and Minimum Lot Size in the Watershed Protection Overlay District

## **Amendment #1** *Artisanal Food and Beverage Ordinance*

**Ballot Language:** The following language would appear on the ballot:

Article X

The Town hereby ordains amendment of the **Zoning Ordinance** to define a new principal use for craft manufactures of food and beverage products, and to establish where this new use is allowed or prohibited, specifically amending Article 2, Definitions, Article 4, Use Regulations, and Article 8, Shoreland Overlay District.

Statement of Fact: The purpose of this amendment is to enhance the Town's hospitality attractions with regard to artisan crafted food and drink, specifically allowing a new use called, "Specialty Food and/or Beverage Facility." The definition is similar to that adopted by the Town of Kittery in recent years. It is intended to allow for product manufacturing, as well as sales, distribution and/or on-site consumption. Types of businesses could include, but are not limited to, a brew pub, micro-brewery, distillery, coffee roaster, bakery or other such facilities. The use would be allowed in York Village, York Harbor, York Beach, in most sections of the Route One corridor, and in most areas of the General Development zones.

**Recommendations:**

Recommended by the Planning Board:

Recommended by the Board of Selectmen:

**Amendment:** In Article 2, Definitions, insert new language to define a new principal use as follows:

***SPECIALTY FOOD AND/OR BEVERAGE FACILITY:** A facility wherein food and/or beverage is produced and is: sold on a wholesale and/or retail basis; distributed; and/or consumed on the premises. This may include but is not limited to a brew pub, micro-brewery, distillery, coffee roaster, bakery, and/or other facilities producing crafted alcoholic or non-alcoholic beverages and/or artisan food.*

In Article 4, Use Regulations, insert into the "Commercial Use Category" of the following zones the new use of Specialty Food and/or Beverage Facility as permitted:

BUS-1

- *Specialty Food and/or Beverage Facility (Not to exceed 5,000 square feet)*

YBVC

- *Specialty Food and/or Beverage Facility (Not to exceed 5,000 square feet)*

GEN-3

- *Specialty Food and/or Beverage Facility (Not to exceed 5,000 square feet) – Allowed only in that portion of the zone that is located south of the Little River.*

RT 1-2

- *Specialty Food and/or Beverage Facility (Not to exceed 5,000 square feet) – Route One Use Permit from the Planning Board is required.*

RT 1-3

- *Specialty Food and/or Beverage Facility– Route One Use Permit from the Planning Board is required.*

RT 1-4

- *Specialty Food and/or Beverage Facility (Not to exceed 5,000 square feet) – Route One Use Permit from the Planning Board is required.*

RT 1-5

- *Specialty Food and/or Beverage Facility (Not to exceed 2,500 square feet of floor space) – Route One Use Permit from the Planning Board is required.*

In Article 4, Use Regulations, insert into the “Commercial Use Category” of the remaining base zones a prohibition of the new use of Specialty Food and/or Beverage Facility as follows:

RES 1-A & RES 1-B

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

RES-2

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

RES-3

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

RES-4

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

RES-5

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

RES-6

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

RES-7

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

BUS-2

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

GEN-1

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

GEN-2

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

RT 1-1

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

RT 1-6

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

In Article 8, Shoreland Overlay District, insert into the “Commercial Use Category” of the Mixed Use Sub-district the new use of Specialty Food and/or Beverage Facility as permitted:

8.2.1.A Mixed Use Subdistrict

- *Specialty Food and/or Beverage Facility– Shoreland Permit from the Planning Board is required.*

In Article 8, Shoreland Overlay District, insert into the “Commercial Use Category” of the remaining sub-districts a prohibition of the new use Specialty Food and/or Beverage Facility as follows:

8.2.1.B Limited Residential Subdistrict

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

8.2.1.C Resource Protection Subdistrict

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

8.2.1.D Stream Protection Subdistrict

- EXPRESSLY PROHIBITED: *Specialty Food and/or Beverage Facility*

## **Amendment #2**

### *Outside Retail Display on Route 1*

**Ballot Language:** The following language would appear on the ballot:

Article X

The Town hereby ordains amendment of the **Zoning Ordinance** to eliminate the sunset clause located under article 6.3.27.2 regarding outside display standards of retail goods within Route 1 Zoning Districts.

Statement of Fact: The purpose of this amendment is to continue to allow for outside display of retail goods per the standards established in Article 6-Special Provisions, Section 6.3.27.2. Outside Retail Display. The outside display standards, as established in May 2012, have been consistent with ensuring standards for visual appearance of commercial properties along Route 1 and will continue to allow businesses, within reason, to display goods for patrons and visitors alike.

**Amendment:** Eliminate the sunset clause located in 6.3.27.2, as follows:

~~SUNSET CLAUSE: Section 6.3.27.2 shall take effect immediately upon passage by the voters, and shall remain valid until June 20, 2015. After this date, outside retail display shall be prohibited. It is expected this allowance for outside retail display will be continued, with or without modification. This Sunset Clause is provided to allow evaluation of the impacts of this section's standards, and to make adjustments if needed without causing long term adverse impacts.~~

Recommended by the Planning Board:

Recommended by the Board of Selectmen:

## **Amendment #3** *Sign Standards (Digital Display)*

**Ballot Language:** The following language would appear on the ballot:

Article X

The Town hereby ordains amendment of the **Zoning Ordinance** to add language to section 16.4.1 enumerating what illuminated signs are prohibited and to clarify that fuel price displays shall comply with pertinent sections of section 16.9 of the sign ordinance.

Statement of Fact: The purpose of this amendment is to reference the prohibitive signs and displays section of the ordinance in order to clarify illumination standards within the sign ordinance and to include reference to digital displays of fuel prices within section 16.9.3 of the ordinance.

**Amendment:** Add and alter language in section **16.4 Illumination of Signs** and **16.9 Prohibited Signs and Displays** of the zoning ordinance as follows:

16.4.1: Except as prohibited in section 16.9 of this ordinance externally and internally illuminated signs shall be illuminated only by steady, stationary, shielded light sources directed solely on the sign without causing glare. ~~Internally lit signs shall not cause undue glare.~~

16.9.3: Flashing, moving or animated signs, movable electric signs, changeable signs, intermittently lit signs, digital, or signs that display electronic images or video are not permitted. Signs indicating fuel prices, time and/or temperature are permitted provided they meet the other provisions of this Section.

Recommended by the Planning Board:

Recommended by the Board of Selectmen:

**Amendment #4**  
*Match Density and minimum lot size in Watershed Protection  
Overlay District*

**Ballot Language:** The following language would appear on the ballot:

Article X

The Town hereby ordains amendment of **Zoning Ordinance** 10.4.1 to ensure that minimum lot size density requirements within the overlay district are consistent with the purpose and intent of the overlay district ordinance and how it relates to density requirements of the underlying zoning district (predominately the Gen-2 Zoning District).

Statement of Fact: The purpose of this amendment is to ensure that the 10 acre minimum lot size density requirements of the Watershed Protection Overlay District are consistent within the underlying district.

**Amendment:** Article 10 section 10.4.1 to read as follows:

**10.4.1 Minimum Lot Size.** No lot with a dwelling unit shall be less than 10 acres in size in this Overlay District. Additional Town requirements regarding net buildable area shall not be applied to this lot size measure, but may apply to the minimum land area requirement in the underlying zoning district. Cluster subdivision shall be allowed within this Overlay District.

Recommended by the Planning Board:

Recommended by the Board of Selectmen:

## **Amendment #1**

### *Gen-3 Zoning District Permitted Uses*

**Ballot Language:** The following language would appear on the ballot:

#### Article X

The Town hereby ordains amendment of the **Zoning Ordinance** to amend the permitted use section of the General-3 Zoning District (GEN-3), specifically amending Article 4.2, Business, Village and General Districts.

Statement of Fact: The purpose of this amendment is to focus and permit a majority of non-residential uses south of the Little River within the Gen-3 district. The majority of parcels located north of the Little River within the district are small and overwhelmingly residential. This amendment is intended to better meet the priorities found within the future land use areas 5, 8, and 12 of the Town's Comprehensive Plan.

#### **Recommendations:**

Recommended by the Planning Board:

Recommended by the Board of Selectmen:

**Amendment:** In Article 4, Use Regulations, Specifically, "Permitted Uses in the Gen-3 zone" Amend the following use category's to read as follows:

#### **Commercial Use Category (GEN-3)**

- Service Businesses Serving Local Needs such as, but not limited to, barber shops, shoe repair, self-service laundry or dry-cleaning pick-up agency, tailoring, printing shop, caterer or other similar uses *(South of the Little River)*
- Small (under 2,500 square feet) Store for Retail Sale of Merchandise provided all display, storage and sale of materials are conducted within a building and provided there is no manufacturing or assembly on premises *(South of the Little River)*
- Banks (with or without drive-through window) *(South of the Little River)*
- Antique Shops
- Laundries and Dry Cleaning Facilities (on public sewer) *(South of the Little River)*
- Plumbing, Electrical or Carpentry Shop or Other Similar Service or Repair Establishment *(South of the Little River)*
- Lodging and Tourist Homes/Inns *(South of the Little River)*
- Restaurants *(South of the Little River)*
- Ice Cream Stands *(South of the Little River)*
- Florists *(South of the Little River)*
- Garden Centers *(South of the Little River)*
- Pet Shops *(South of the Little River)*

**Draft Amendments to be voted in May 2015**

DRAFT – November 24, 2014

Page 1

- Commercial Schools (*on public sewer*)
- Day Care Facilities
- Fruit and Vegetable Produce Stores
- EXPRESSLY PROHIBITED: Large Store or Mall (Group of Stores Under Single Roof) With Total Floor Space Over 2,500 Square Feet for Retail Sale of Merchandise; *Store for Retail Sale of Merchandise such as but not limited to Lumber Yards and Building Supply Yards wherein merchandise is stored in the open, provided that all merchandise so stored is screened from ground level view from any abutting residential property*; Motels/Hotels; Fast Food Restaurants, whether the use is a principal use or an accessory use; Formula Restaurants, whether the use is a principal use or an accessory use; Truck Stops; Marinas; Medical Marijuana Production Facility; Medical Marijuana Registered Dispensary.

**Office Use Category (GEN-3)**

- Business, Financial, Professional or Government Offices, Except Town of York or York School District Offices (*South of the Little River*)
- Town of York or York School District Offices
- Offices and Clinics for Medical, Psychiatric, or Other Health Services for the Examination or Treatment of Persons as Outpatients, including only Laboratories that are Part of Such Office or Clinic (*South of the Little River*)
- Laboratory or Research Facility (*South of the Little River*)
- EXPRESSLY PROHIBITED: Radio or Television Studio.

**Civic & Public Use Category (GEN-3)**

- Cemeteries
- Civic Use
- Cultural Facility (*on public sewer*)
- Essential Services
- Hospitals (*South of the Little River*)
- Medical Facility (*South of the Little River*)
- Membership Organization (*South of the Little River*)
- Municipal Use
- Nursing Homes (*on public water and sewer*)
- Religious Use
- School
- Utility District

**Industrial Use Category (GEN-3)**

- Printing, Binding, Publishing and Related Arts and Trades (*South of the Little River*)
- Bottling of Beverages (*South of the Little River*)
- Machine Shop, Assembly, Packaging, or Manufacturing (*South of the Little River*)
- Wholesale Business and Storage in a Roofed Structure (*South of the Little River*)

- Wood Manufacturing and Fabrication (*South of the Little River*)
- Bulk Storage Collection Bin (*South of the Little River*)
- EXPRESSLY PROHIBITED: Waste Processing or Disposal Facility; Bulk Fuel Storage; Truck Terminals; Waste Transfer Facility.

#### **Vehicular Use Category (GEN-3)**

- Vehicle Service Stations, Auto Repair Garages (PROHIBIT?)
- Auto Body Repair Shops (PROHIBIT?)
- Place for Repair, Sale, Rent or Storage of Pleasure Boats (OK?)
- EXPRESSLY PROHIBITED: Sale, Rental and Accessory Storage of Automobiles, Light Trucks, Motorcycles, and Mopeds Conducted Wholly or Partially in Open Lots; Sale of Pickup Coaches, Campers, Tent Trailers and Similar Equipment, Including Snowmobiles; Salvage Yards, Junk Yards, Wrecking Yards; Car Washing Establishment.

#### **Rural & Agricultural Use Category (GEN-3)**

- Soil and Water Conservation Practices – Conducted in accordance with the standards of the USDA Natural Resources Conservation Service including but not limited to creation and maintenance of farm ponds for agricultural purposes.
- Aquaculture
- General Purpose Farm, Agriculture and Nurseries
- Timber Harvesting
- Forest Management Activities Except for Timber Harvesting
- Sale of Produce Raised on Same Premises
- Wildlife Management Practices
- Animal Breeding (Small Domestic Animals)
- Harvesting of Wild Crops
- Veterinary Establishment, Kennel, or Similar Establishment – Provided that in commercial zones animals are kept wholly indoors.
- EXPRESSLY PROHIBITED: *Commercial Stables*; Mineral Exploration; Sand/Gravel Pits, Quarries, etc.

#### **Recreation & Amusement Use Category (GEN-3)**

- Indoor Amusement/Entertainment/Assembly Place (Enclosed) (*South of the Little River*)
- Indoor Sports Facility (No Gambling) (*South of the Little River*)
- Outdoor Sport and Amusement Facilities Conducted for Profit
- Country Club
- EXPRESSLY PROHIBITED: Campgrounds and Travel Trailer Parks; Amusement Arcades (as Primary or Accessory Use); Open Air or Drive-In Theater or Other Open Air Places of Entertainment; Bath House for Non-Commercial Purposes.

**Miscellaneous Use Category (GEN-3)**

- Piers, Docks, Wharves, Breakwaters, Causeways, Bridges and Other Structures and Uses Extending Over or Below the Normal High Water Mark – Temporary or Permanent.
- Flea Markets (*South of the Little River*)
- Mortuary, Undertaking or Funeral Establishment (*South of the Little River*)
- Place for Exhibition, Lettering or Sale of Gravestones (*South of the Little River*)
- Filling or Other Earthmoving Activities
- Road and Driveway Construction
- Structures Accessory to Permitted Uses – If the principal structure or principal use is a dwelling unit, an accessory structure shall not have cooking facilities and shall not have more than one of the following: living facilities, sanitary facilities or sleeping facilities.
- Accessory Uses Customarily Incident to Allowed Uses
- Uses Similar to Permitted Uses
- EXPRESSLY PROHIBITED: Casino; Head Shop; Obscene Exhibitions; Dumps; Billboards; Uses Similar to Prohibited Uses. *Specialty Food and/or Beverage Facility (Not to exceed 5,000 square feet)*



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> December 5, 2014	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> December 8, 2014	
<b>Regular</b> <input checked="" type="checkbox"/> <b>Work Session</b> <input type="checkbox"/>	
<b>Subject:</b> York River Wild & Scenic	

<b>TO:</b> BOARD OF SELECTMEN
<b>FROM:</b> Stephen H. Burns, Town Manager
<b>RECOMMENDATION:</b> none recommended
<b>PROPOSED MOTION:</b> none

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**Discussion:** The Board has a public hearing on the agenda for the meeting of December 8<sup>th</sup>, along with a follow-up discussion. This is not an action item.

The reason for this hearing is because there has been concern expressed publicly about the possibility of the federal designation process moving forward. Designation is a two-step process, beginning with a study phase and ending with a designation phase. Back in 2010 the York Board of Selectmen voted to support the federal government moving forward with the study process for the York River. A bill to initiate the study phase was eventually submitted in the United States House of Representatives, and another in the United States Senate. At this point in time the House bill has passed, but the Senate bill remains pending. The purpose of the public hearing is to provide a forum for the public to present information in support of or opposition to starting the process. While the decision to move forward or not will be made in Washington DC, it is still important for the Board to hear the views of local people, particularly as these views may be different now than 4 years ago.

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Attached to this Action Form is information relevant to this issue. There are 7 documents to follow. These include:

1. BOS meeting minutes and supporting information from November 1, 2010 when the Board voted to support moving forward with the study phase.
2. The House bill (H.R. 2197)
3. The House report accompanying H.R. 2197
4. The Senate bill (S. 1520)
5. An e-mail expressing concern
6. A packet of information supporting the proposal
7. The National Park Service's Reconnaissance Study of the York River

Bonita Pothier from Senator King's staff will be attending our meeting. I have extended invitations to staff from Senator Collins and Representative Pingree's offices as well. My hope is that these folks will be able to answer technical questions if the Board has any.

Prepared By: \_\_\_\_\_

A handwritten signature in black ink, appearing to be 'S. King', written over a horizontal line.

Reviewed By: \_\_\_\_\_

1



# Town of York

186 York Street  
York, Maine 03909-1314

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Town Manager/  
Selectmen  
(207)363-1000

Town Clerk/  
Tax Collector  
(207)363-1003

Finance/  
Treasurer  
(207)363-1004

Code Enforcement  
(207)363-1002

Planning  
(207)363-1007

Assessor  
(207)363-1005

Police Department  
(207)363-1031

Dispatch  
(207)363-2557

York Beach Fire  
Department  
(207)363-1014

York Village Fire  
Department  
(207)363-1015

Public Works  
(207)363-1011

Harbor Master  
(207)363-1000

Senior Center/  
General Assistance  
(207)363-1036

Parks and  
Recreation  
(207)363-1040

Fax  
(207)363-1009  
(207)363-1019

www.yorkmaine.org

## SELECTMEN'S MEETING 7:00 P.M. MONDAY NOVEMBER 1st 2010 YORK LIBRARY MINUTES

**Attendees:** Michael L. Estes, Tracy Jackson-McCarty, Edward W. Little, Catherine R. Goodwin, Robert G. Yandow, Town Manager Kathryn Danylik, Recorder and Members of the Press & Public

Mary Andrews was not in attendance

**Call to Order-** Chairman Jackson-McCarty called the meeting to order at 7:01 PM

### Pledge of Allegiance

#### A. Minutes

-October 18th, 2010 Selectmen's Meeting Minutes  
Moved by Mr. Estes and seconded by Mr. Little to approve the October 18th, 2010 Selectmen's Meeting Minutes. Without objection so ordered.

#### B. Chairman's Report

Chairman Jackson-McCarty wished Selectman Estes a Happy Birthday

#### C. Manager's Report

Mr. Yandow urged people to please vote, Tuesday, November 2nd. The polls are open at the York high School from 8:00 AM to 8:00 PM.

Mr. Yandow stated that on Tuesday Nov 9th MDOT will have a meeting on the Route 1/Spur Road Project from 6:00 PM to 8:00 PM at the York Senior Center.

#### D. Awards

##### 1. Town Dock #1 Bid Award

On October 19th, 2010 bids were opened for the voter-approved rehabilitation of town docks #1. The Town received four bids with the low bid being received by Maritime Construction and Engineering in the amount of \$539,890. This low bid is very good news as the project has been estimated to cost up to \$950,000 which is the amount that was approved by the voters. Additionally a grant from the Maine Department of Transportation's Small Harbor Improvement Program in the amount of \$138,000 will further reduce the cost to the taxpayers. The Harbor

Board has determined that there are some additional expenses outside the scope of the base construction bid that are necessary. The addition costs are as follows: 11 piles for dinghy floats-\$22,715, 5 composite fender piles-\$7,062, Temporary flat relocation- \$2,000, 2<sup>nd</sup> hoist non-corrosive-\$9,250, 2<sup>nd</sup> hoist hydraulic pump and motor-\$5,500, saltwater washdown system-\$7,700, additional electrical wiring for washdown-\$5,000, Repair 3 aluminum ramps-\$7,800, Clerk of the Works-\$30,000, and Engineering-\$5,000, totaling \$102,027. Right now these are all estimated costs and once the final costs come in the Harbor Board will notify the Board of Selectmen in writing.

Moved by Mr. Estes and seconded by Mr. Little to award the base bid for Rehabilitation of Town Dock #1 to Maritime Construction and Engineering, LLC in the amount of \$539,890 and move to approve the additional expenses listed estimated to cost \$102,027. Vote 4-0 motion passes.

#### **E. Reports**

1. National Park Service Wild and Scenic Rivers Program for York River  
Some time ago a group of citizens started to discuss a federal program to enhance the York River. The program is under the auspices of the National Park Service and is entitled the Wild and Scenic Rivers Partnership Program. The Citizen's group is asking for the support of the Board of Selectmen to pursue federal funding for a two to three year study of the York River. After the study is complete the town would have the option of pursuing formal designation under the program which would allow for additional federal funding for a variety of projects on the York River.

The Wild and Scenic Rivers Act was enacted by Congress in 1968 as a means to protect and recognize natural rivers and their immediate environments that possess outstanding remarkable scenic, recreational, geological, fish and wildlife, historic, cultural or other similar values that should be preserved in free flowing conditions. This project will determine if the York River is worthy of national recognition and if local residents are interest in the Wild and Scenic Program. If residents are interested in the program and designation is granted, funding from the national Parks Service would be available on a yearly basis for a variety of River Project. The goal of the program is to increase awareness of the York River's significance as an important national, cultural, scenic, ecological, and recreation resources and to protect it "for benefit and enjoyment of present and future generations."

Moved by Mr. Little and seconded by Ms. Goodwin that the Board of Selectmen support a request to Maine's Congressional Delegation asking the members to seek authorization in the United State House and Senate

for Federal funding authorizing a study of the York River under the National Park Service Wild and Scenic Rivers Program. Vote 4-0, motion passes.

**F. Citizens Forum** - The citizen's forum is open to any member of the audience for comments on items listed on this meeting agenda or to propose items for future meeting agendas. All comments should be respectful in tone and should be directed to the chair. Comments should be brief and to the point. Questions that require extended answers or that cannot be readily answered will be referred to the town manager for follow-up. Anyone who wishes to submit a written request for future agenda items can do so on the form available at this meeting or may obtain the form through the town manager's office.

Public Comment: Charles Stacy  
Paul MCGowen  
Linda Scotland  
Evelyn Bentley  
Carol Allen  
Jim Smith

**G. Approval of Warrant #18**

Moved by Mr. Little and seconded by Mr. Estes to approve Warrant #18. Without objection so ordered.

**H. PUBLIC HEARINGS**

**I. ENDORSEMENTS**

**License Applications**

-None

**J. Old Business**

**K. New Business**

**1. Joint Meeting with the Planning Board**

The Planning Board presented their research on the land area between Route One and York Beach and their current work with the Comprehensive Plan. The Board of Selectmen had previously charged the Planning Board to create a vision, provide proposals and recommendations through the public participatory process for what the Town of York wants to see happen in the land area between the York Beach Fire Department and Route One. There is 370 acres of land in that area with six different zoning designations. Over the past couple of months the Planning Board has developed 13 goal areas that will allow for the development of their objectives. Over the summer members of the Planning Board took to the streets of York Beach, the Nubble and Long

Beach with a survey to try to determine what the residents and visitors are looking for in development. Some of the comments that were heard were:

- People are walking down to the beach and parking is not an issue
- Heard a lot about not enough for young children but not much about teenagers
- Once the animal kingdom shuts down then it seems like the town shuts down.
- Strongest complaint was the parking meters and the hours and where to get change
- Common theme was to preserve the safe family atmosphere
- Updates are needed but don't change to much...keep that old feel.
- 4 season environment
- concerns about restrooms in all areas, they are too small and not adequate

Ms. Jackson-McCarty stated that we have to stay broad with any ideas considering the vast array of zones and environmental issues until you start to hear some specific direction from the public at the public hearings.

Ms. Goodwin asked if anyone had spoken with the Shoreline Trolley Company to see if there is any possibility of expanding that service to both villages. The Planning Board has had a brief conversation with the Trolley service and it is something that they will continue to look into.

Ms. Goodwin stated that she is glad that the value of the Wild Kingdom is being recognized, it is an economic engine, it is the anchor and can be improved but it is a huge attraction. Ms. Goodwin stated that maybe there could be some sort of education center incorporated somewhere that could focus on the educational aspects of town. For example a community college branch, an aquarium or a museum. These types of attractions are what could make York Beach a four season area.

Mr. McDonald stated that he thinks that we need to try to expand the activities for the seasons that we have now and then let it expand naturally.

The Planning Board will return to the Board of Selectmen with a final report with all of their research and findings.

#### Comprehensive Plan

The Planning Board also reported on the progress that they have made regarding the comprehensive plan. All ordinances that the Planning Board creates must follow the comprehensive plan and there are 169 recommendations in the plan for the Planning Board to address. Some of

them have been addressed and have been completed. The Board is hoping to initiate some of the goals with the York Beach Project in the near future. They have developed 40 different items that they would like to focus on. The final document with those focus areas has not been completed yet, it is still a work in progress but they will be publishing a full list.

The Board of Selectmen thanked the Planning Board for their update and congratulated them on the progress that they have made. The next update will come at the next joint meeting sometime in January or February.

**2. Property Redemption Request: 63 Cycad Avenue**

Moved by Mr. Estes and seconded by Ms. Goodwin to approve the redemption of Map 0028/ Lot 0125-A: 63 Cycad Avenue, as requested, on the condition that all taxes, interest and administrative costs are paid in full by no later than January 2<sup>nd</sup>, 2011. Vote 4-0 motion passes.

**3. Blanket Approval Letter for Games of Chance**

Moved by Mr. Estes and seconded by Mr. Little to approve the 2011 Blanket Letter of Approval for Games of Chance listed in that attached letter. Vote 3-0 Ms. Goodwin abstained.

**L. Other Business**

**Adjourn**

Moved by Mr. Little and seconded by Ms. Goodwin to adjourn at 10:30 PM

Respectfully Submitted By:

  
Kathryn Danylik, Recorder



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> October 28, 2010	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> November 1, 2010	
Regular <input checked="" type="checkbox"/> Work Session	
<b>Subject:</b> National Park Service Wild and Scenic Rivers Program	

<b>TO:</b> Board of Selectmen
<b>FROM:</b> Robert G. Yandow, Town Manager
<b>RECOMMENDATION:</b> Support Request for Federal Funding to Conduct Study of the York River
<b>PROPOSED MOTION:</b> I move that the Board of Selectmen support a request to Maine's Congressional Delegation asking the members to seek authorization in the United State House and Senate for federal funding authorizing a study of the York River under the National Park Service Wild and Scenic Rivers Program.

**Discussion:** Some time ago a group of citizens started to discuss a federal program to enhance the York River. The program is under the auspices of the National Park Service and is entitled the Wild and Scenic Rivers Partnership Program. The citizen's group is now asking for support from the Selectmen to pursue federal funding for a two to three year study of the York River. After the study is complete the town would have the option of pursuing formal designation under the program which would allow for additional federal funding for a variety of projects on the York River.

If the town is interested in participating in the program a formal request will be made to our congressional delegation asking them to request authorization from the United States House and Senate for federal funding to conduct the preliminary study of the river.

Attached is information supplied by the citizen's group which provides information on the program.

**FISCAL IMPACT:**

**DEPARTMENT LINE ITEM ACCOUNT:**

**BALANCE IN LINE ITEM IF APPROVED:**

Prepared By:

Robert B. Gannon

Reviewed By:

\_\_\_\_\_

## **Presentation to Board of Selectmen**

National Park Service (NPS) Wild and Scenic Rivers - Partnership Program

Presented by Friends of the York River

November 1, 2010

### **Objective:**

**To provide an overview of the NPS Wild and Scenic Partnership Program and to receive the Board's endorsement to proceed with the application to Congress for Phase I – a preliminary three-year federally-funded study of the York River**

### **Materials provided:**

Map of the York River

Summary of the Wild and Scenic Project

Designation, Benefits, Goals, Process

Steps involved

York Weekly article (August 25, 2010) by Ron McAllister

For more information:

**The Wild & Scenic website is: [nps.gov/ncrc/programs/rtca/nri/hist.html](http://nps.gov/ncrc/programs/rtca/nri/hist.html)**

# YORK RIVER WILD AND SCENIC PARTNERSHIP PROGRAM WITH NATIONAL PARK SERVICE

## WHAT IS WILD AND SCENIC DESIGNATION?

- The Wild and Scenic Rivers Act was enacted by Congress in 1968 as a means to protect and recognize natural rivers and their immediate environments that possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values that should be preserved in free flowing condition.
- River in this national system are protected for the benefit of present and future generations.
- The Act is notable for safeguarding the special character of these rivers, while also recognizing the potential for their appropriate use and development. It encourages river management that crosses political boundaries and promotes public participation in developing goals for river protection.
- No new permits or regulations are associated with Wild and Scenic designation. **Local control still governs: Land use remains subject to existing town and state statutes.**

## WHAT ARE THE BENEFITS TO GEOGRAPHIC AND DEMOGRAPHIC AREA: YORK/ELIOT?

As a subset of the greater National Wild and Scenic Rivers System, the Partnership Wild and Scenic Rivers Program helps communities preserve and manage their own river-related resources locally by bringing together State, county, and community managers to preserve the outstanding and remarkable values for which the rivers were set aside.

- River would remain free flowing.
- National, state and local recognition of the important values inherent in the river its immediate environment, and its important role as an estuary in the Mt. Agamenticus ecosystem.
- Annual Federal funding an. leverage opportunities to carry out management, education, **investigation (historical as well as ecological)**, protection and possibly **local** land acquisition.

## GOALS

- The York River as a special place worthy of national recognition and deemed worthy of Wild & Scenic designation as a tidal river.
- Increased awareness of the York River and its significance as an important natural, cultural, scenic and recreational resource, as well as recognition of the river's relationship to the larger ecosystem .
- Regardless of classification, each river in the National System is administered with the goal of protecting and enhancing the values that caused it to be designated. Designation neither prohibits development nor gives the federal government control over private property. Recreation, agricultural practices, residential development, and other uses may continue. Protects these values for today and for future generations.

## PROCESS

- Exploration, investigation, education of town leaders and community members to determine interest/support to move forward with a study
- Formation of a committee with leadership to coordinate the project
- Request to Congressional Delegation for authorization of a study (Energy and Natural Resources Committee in the Senate and Natural Resources Committee in House)
- If request is approved, funding is granted for a 2-3 year study. The Study determines if a community wants the designation, as well as if the river is appropriate for it. **The Study enhances a community's understanding and appreciation of the river. It has value in and of itself.**
- Based on study and community support, a request for Wild and Scenic Designation goes back to the Congressional Delegation for authorization. Bottom line: the community must want designation for it to move forward..
- Once approved, the committee must develop a 5 year plan for the river/watershed. There is an ongoing commitment as designation is permanent.

*April 2010*

## Summary of Wild and Scenic Designation Project

- A group of local citizens, referring to themselves as friends of the York River, is exploring the possibility of attaining the Wild & Scenic designation from the National Parks Service for the York River, a program established for rivers with one or more “outstandingly remarkable” scenic, recreational, geologic, fish and wildlife, historic, cultural resource values.
- To determine if the York River is worthy of national recognition and if local residents are interested in the Wild & Scenic Program, a preliminary three- year federally-funded study would be undertaken to analyze various aspects of the river.
- After this preliminary study, if residents are interested in the Wild & Scenic designation and if designation is granted, funding from the National Parks Service would be available on a yearly basis for a variety of river projects.
- ***All aspects of the process including acceptance of the designation are driven by the community and under local control.*** The only requirement by the National Parks Service is that the river remain free flowing.
- The goal of the program is to increase awareness of the York River's significance as an important national, cultural, scenic, ecological and recreational resource and to protect it “for the benefit and enjoyment of present and future generations.”
- So far, the friends of the York River have encountered overwhelming support for moving ahead with the application for the Wild & Scenic preliminary study.

# National Park Service (NPS) Wild and Scenic Designation – Partnership Program

## Steps Involved

1. Exploration and Investigation – Determine Pluses and Minuses and what is involved. MTA2C Communications and Policy Committee has been doing this.
2. There are two phases: Phase 1: The Study Phase, which generally takes about three years; and Phase 2: Designation, which is dependent on the results of the Study and support in the communities.
3. Decision of whether to move forward with the Study – in the end the decision must have the support of and be made by environmental leaders in communities that host the river. Local champion or champions are needed. A River/Watershed Committee is formed.
4. Community Engagement. Education of town leaders and key decision-makers is needed to get to the Study Phase, as letters of support from town leaders will be submitted to Congressional Delegation when the below request (#5) is made.
5. Request by the River/Watershed Committee is made to Congressional Delegation to authorize a Study of the York River . If agreeable, Maine Congressional Delegation makes this request of their respective authorizing committees (Energy and Natural Resources in the Senate, Natural Resources in the House). This essentially authorizes NPS to expend funds on a study of the river.
6. Once authorized the Study begins and continues for about 3 years. A separate appropriations request is not needed to fund the Study. Providing Congress continues to support the W&S Program, NPS is appropriated a level of funding each year for studies.
7. Wild and Scenic Designation may or may not occur -- based on results of the Study and the level of support and interest of the communities.
8. If Designation occurs the local River/Watershed Committee moves forward with implementation. It develops five-year management strategy (plan), and commences work to implement the plan developed during the study phase. This "plan" establishes the vision, goals, recommendation, etc. for the Wild and Scenic River , and must have community support. Designation is ongoing. It does not have an end-point. Commitment is needed on the part of the River or Watershed Committee and those involved.

*April 2010*

## **The York River: 25 August 2010**

by  
Ron McAllister

The York River is a tidal stream originating at the northwest corner of York Pond in Eliot and ending at Stage Neck in York. Compared to giants like the Allagash and the Kennebec, the York is a minor body of water in a state abundant with lakes, ponds and rivers, but if you've ever been on it in a kayak, you know the York River to be one of the most beautiful waterways around.

Paul Dest, director of the National Estuarine Research Reserve in Wells, expressed the opinion that "you'd have to go a long way to see as spectacular a river (as the York) anywhere in Southern Maine. It's a treasure."

You'll know this, too, if you've ever driven west along Cider Hill Road and stopped to watch the meandering course behind McIntyre Farm. It doesn't take much imagination to conjure up what the river was like centuries ago; or to understand why Europeans chose to settle at Agamenticus -- the cove beyond the hill.

Half a dozen bridges in town cross the York on its way to the Harbor and from each one you get a different perspective on the river. It is slow and patient by Birch Hill; eager but leisurely as it passes under Scotland Bridge; ever changeable at Rice's Bridge; industrious and active below Sewalls Bridge; almost free as it goes beneath Route 103; rushing and reckless as it meets the sea.

Appreciation for the river is not unusual among people in York but what is unusual is the effort a group of local residents is initiating to preserve and protect the river. For the last six months, a grassroots organization has been building momentum to get the York classified as a "Wild and Scenic River."

## **The York River: 25 August 2010**

by

Ron McAllister

Since Congress passed the Wild & Scenic Rivers Act in 1968, it has been the policy of the National Park Service (NPS) to identify those U.S. rivers which “possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural or other similar values” and to help local communities protect them and their immediate environments for the benefit and enjoyment of present and future generations.

I asked Chuck Ott, a member of the steering committee, why he chose this project in which to invest his time. “I want the town to appreciate this river,” he said, “admire and add value to it.” His comments were echoed by Karen Arsenault who also serves on the steering committee. “The beauty can go away,” she observed, “if we are not actively engaged in protecting the river.”

Since its inception, the group has hosted several gatherings in an effort to educate people and to take the pulse of the Town with regard to the river. “Community involvement will be crucial to our success,” Carol Donnelly told me. “Without the support of the Town, there will be no investment by the National Park Service in this project.”

The work of creating a management plan for the York River is the end goal but there is much to be done before that can be considered. Under NPS guidelines, before a management plan is developed, the York River will have to be studied to be sure that it qualifies as a wild and scenic river. It could take up to three years for such a study to be completed. The group’s initial plan is to apply for NPS funding to support the multi-disciplinary study which will answer that crucial question.

“We think the river qualifies,” Carol Donnelly told me, “but we can’t be sure until we have done the necessary assessments of the environmental, archaeological, and

## **The York River: 25 August 2010**

by

Ron McAllister

regulatory aspects of the river.” If the study is funded by the NPS, only then could the group seek further funds to develop a management plan.

Enthusiasm among members of the group -- which in addition to Arsenault, Dest, Donnelly and Ott includes Bernadine Speers, Stuart Dawson, Helen Winebaum and Dave Gittens -- is high. Each of them understands, however, that community ownership of the project is critical. “If the people in Town don’t have sufficient interest in protecting the river, it won’t happen.”

To foster better understanding of the NPS process and its Wild and Scenic Rivers program, the steering committee will be making a presentation to the Board of Selectmen. If you love the river, you should plan to be there on September 13 when the group discusses the process on which they hope to embark.

If you’re undecided, go look at the river; then go to the meeting. It’s a treasure.

Minutes  
York Conservation Commission  
October 12, 2010

Meeting called to order at 7:00 p.m. by Chairman David Tibbetts. Also present: Ana Gray, Chuck Ott, Bob Tilley.

Election of officers: Moved by Bob Tilley to elect David Tibbetts Chairman, Ana Gray Treasurer, and Chuck Ott Secretary. Seconded by Ana Gray. Motion passes by unanimous vote.

Meeting location: David will inquire about meeting at the York Library.

Cape Neddick River: Chuck announced a meeting of the Cape Neddick River Association for Wednesday, October 13 at 6:30 at the Senior Center. The agenda calls for an election of officers, a review of progress of the plan for the restoration of the river, and a report by Steve Burns on a new initiative to enforce septic system plumbing requirements.

York River: Chuck announced a meeting with York Board of Selectmen on Nov. 1 to seek their endorsement of the application for the study phase of the National Park Service Wild and Scenic Partnership Program. Chuck offered the following motion in support of this application.

Be it resolved that the York Conservation Commission endorse the application to enter in to the study phase of the National Park Service's Wild and Scenic Partnership Program for the York River. This study will fulfill an acute need for up-to-date, scientifically rigorous data regarding the natural, cultural, and historical assets of this extraordinary river and serve as a basis for monitoring its health and managing its resources wisely.

The motion was seconded by David and passed unanimously.

Clause/McIntire subdivision: As this proposal impacts a highly sensitive area, David will attend the Planning Board meeting for the discussion of this subdivision on October 14.

Chuck moved to adjourn at 8:50 p.m. Seconded by Ana Gray. Passed unanimously. Meeting adjourned.



YORK SCHOOL DEPARTMENT  
OFFICE OF THE  
SUPERINTENDENT OF SCHOOLS

October 27, 2010

The York Board of Selectmen  
The York Town Offices  
186 York Street  
York, ME 03909

Dear Board of Selectmen Members:

The opportunity for student involvement through the curricular areas of science, technology, social studies and service learning through the Wild and Scenic Designation Project aligns perfectly with The York School Department's Strategic Plan and our commitment to promote opportunities for students to be active citizens who are engaged in learning experiences based on real life applications of their learning. We recognize the need to motivate and prepare our students for career opportunities in the 21st Century through these inquiry-based practices, and appreciate the expanded connections with community organizations that the Wild and Scenic Designation project would provide for our schools.

Our community partnerships in York are long-standing and include many of the organizations that will be involved in this project. The Museums of Old York, the York Rivers Association, the York Land Trust, the York Public Library and the York Rotary have worked closely with the schools in programs that have been very beneficial to our students and our faculty.

Participating in the Wild and Scenic Designation project will provide our staff with expanded educational resources and assist them in designing learning experiences that will benefit the community. Surveys, monitoring, presentations and the use of technological tools to conduct experiments are all instructional activities that will make lessons exciting and allow teachers to grow professionally as they collaborate with community members who share their expertise. The support of these local community "experts" will benefit both students and teachers.

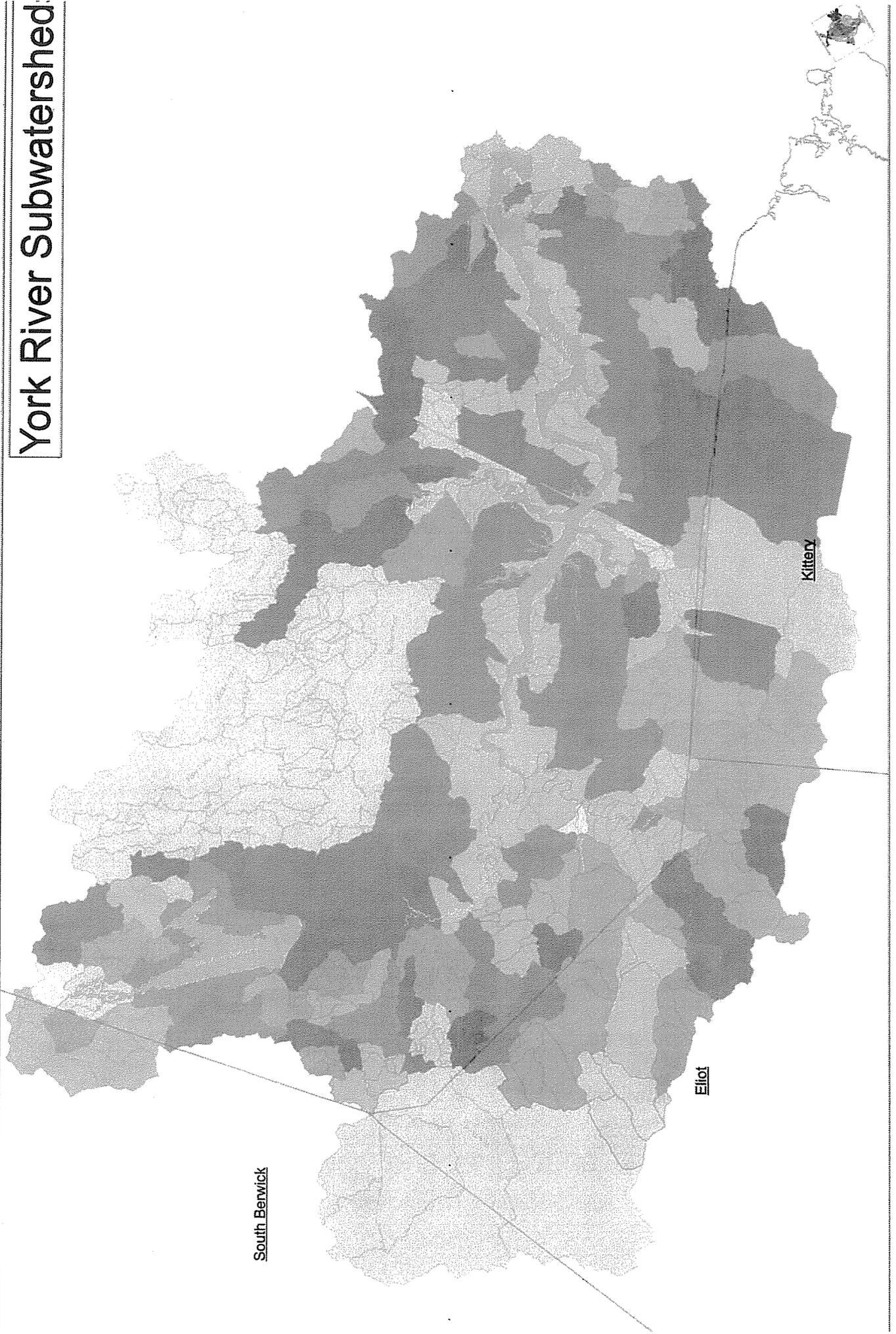
The York School Department is very enthusiastic about the possibilities that this project holds for our students and our teachers and we look forward to learning that the Board of Selectmen has endorsed participation in this initiative. If we can provide any further information, please do not hesitate to contact us.

Sincerely,

  
Henry B. Scipione, Ed.D.  
Superintendent of Schools

  
Maryann J. Minard, Ph.D.  
Director of Curriculum

# York River Subwatershed:



2

113TH CONGRESS  
2D SESSION

# H. R. 2197

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IN THE SENATE OF THE UNITED STATES

MARCH 5, 2014

Received; read twice and referred to the Committee on Energy and Natural  
Resources

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## AN ACT

To amend the Wild and Scenic Rivers Act to designate segments of the York River and associated tributaries for study for potential inclusion in the National Wild and Scenic Rivers System.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “York River Wild and  
3 Scenic River Study Act of 2014”.

4 **SEC. 2. DESIGNATION FOR STUDY.**

5 Section 5(a) of the Wild and Scenic Rivers Act (16  
6 U.S.C. 1276(a)) is amended by adding at the end the fol-  
7 lowing:

8 “( ) YORK RIVER, MAINE.—(A) The York  
9 River that flows 11.25 miles from its headwaters at  
10 York Pond to the mouth of the river at York Har-  
11 bor, and all associated tributaries.

12 “(B) The study conducted under this paragraph  
13 shall—

14 “(i) determine the effect of the designation  
15 on—

16 “(I) existing commercial and rec-  
17 reational activities, such as hunting, fish-  
18 ing, trapping, recreational shooting, motor  
19 boat use, bridge construction;

20 “(II) the authorization, construction,  
21 operation, maintenance, or improvement of  
22 energy production and transmission infra-  
23 structure; and

24 “(III) the authority of State and local  
25 governments to manage those activities;  
26 and

1 “(ii) identify—

2 “(I) all authorities that will authorize  
3 or require the Secretary to influence local  
4 land use decisions (such as zoning) or  
5 place restrictions on non-Federal land if  
6 designated under this Act;

7 “(II) all authorities that the Secretary  
8 may use to condemn property; and

9 “(III) all private property located in  
10 the area studied under this paragraph.”.

11 **SEC. 3. STUDY AND REPORT.**

12 Section 5(b) of the Wild and Scenic Rivers Act (16  
13 U.S.C. 1276(b)) is amended by adding at the end the fol-  
14 lowing:

15 “( ) YORK RIVER, MAINE.—The study of the  
16 York River, Maine, named in paragraph ( ) of sub-  
17 section (a) shall be completed by the Secretary of  
18 the Interior and the report thereon submitted to  
19 Congress not later than 3 years after the date on

1       which funds are made available to carry out this  
2       paragraph.”.

      Passed the House of Representatives March 4,  
2014.

Attest:

KAREN L. HAAS,  
*Clerk.*

3

113TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
*1st Session* } { 113-223

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YORK RIVER WILD AND SCENIC RIVER STUDY ACT OF  
2013

SEPTEMBER 20, 2013.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural  
Resources, submitted the following

R E P O R T

[To accompany H.R. 2197]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2197) to amend the Wild and Scenic Rivers Act to designate segments of the York River and associated tributaries for study for potential inclusion in the National Wild and Scenic Rivers System, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2197 is to amend the Wild and Scenic Rivers Act to designate segments of the York River and associated tributaries for study for potential inclusion in the National Wild and Scenic Rivers System.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2197 authorizes the National Park Service (NPS) to study 11.25 miles of the York River, in the State of Maine, from its headwaters at York Pond to the mouth of the river at York Harbor, plus its tributaries, for possible inclusion in the Wild and Scenic Rivers System. The Wild and Scenic Rivers Act of 1968 was intended to put a development freeze on rivers to preserve their “free-flowing” values against the influx of man-made dams being constructed at the time. Temporary restrictions on actions involving federal participation accompany the designation of a river during the study period.

Although no risks to the York River necessitating federal designation were identified, proponents of the study explained that they would benefit from the expertise of NPS and the interaction with the community and students.

Typically, rivers that may be included in the Wild and Scenic Rivers program operated by NPS are first studied for their suitability. The river is evaluated on its free-flowing condition and classified as wild, scenic or recreational, depending on the amount of development on and near the river.

H.R. 2197 includes several critical components to the study that will be undertaken by the NPS. First, NPS is required to consider the effect of designation on commercial and recreational uses, such as hunting, fishing and boating. Second, NPS must look at the impact on construction and maintenance of energy production and transmission. Third, NPS must identify private property within the study area and identify all authorities that could be utilized to condemn land.

Concerns have been raised that the Wild and Scenic Rivers Act contains several authorities allowing the federal condemnation of private property. As Wild and Scenic Rivers are purported to be locally-driven projects, the Committee sees no reason why property owners should be left in the dark regarding the inclusion of their property in a federal designation. For the study process to be authentically derived from the community, the facts and limitations on property rights that may result from a designation must be revealed.

Finally, the study will identify those authorities that compel NPS to involve itself in local zoning. While federal designation of the York River may be appealing to some, the community should be aware that the Wild and Scenic Rivers Act requires local zoning to conform to the dictates of the Act. Representatives of the federal government would have a role in the development of local zoning ordinances. It should be noted that the study not only includes the York River, but tributaries as well. The size and scope of the resulting designation could be well beyond what is currently anticipated in the impacted towns.

#### COMMITTEE ACTION

H.R. 2197 was introduced on May 23, 2013, by Congresswoman Chellie Pingree (D-ME). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Public Lands and Environmental Regulation. On July 24, 2013, the full Natural Resources Committee met to consider the bill. The Subcommittee on Public Lands and Environmental Regulation was discharged by unanimous consent. No amendments were offered, and the bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

## COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 2197—York River Wild and Scenic River Study Act of 2013*

H.R. 2197 would require the National Park Service (NPS) to study a segment of the York River in the state of Maine for potential addition to the Wild and Scenic Rivers System. Based on information provided by the NPS, CBO estimates that implementing the legislation would cost about \$300,000 over the next three years, assuming availability of appropriated funds. Enacting H.R. 2197 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2197 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Martin von Gnechten. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information provided by the NPS, CBO estimates that implementing the legislation would cost about \$300,000 over the next three years, assuming availability of appropriated funds.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Wild and Scenic Rivers Act to designate segments of the York River and associated tributaries for study for potential inclusion in the National Wild and Scenic Rivers System.

## EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

## COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

## COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

## PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

**WILD AND SCENIC RIVERS ACT**

\* \* \* \* \*

SEC. 5. (a) The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

- (1) Allegheny, Pennsylvania: The segment from its mouth to the town of East Brady, Pennsylvania.
- (2) Bruneau, Idaho: The entire main stem.
- (3) Buffalo, Tennessee: The entire river.
- (4) Chattooga, North Carolina, South Carolina, and Georgia: The entire river.
- (5) Clarion, Pennsylvania: The segment between Ridgway and its confluence with the Allegheny River.
- (6) Delaware, Pennsylvania and New York: The segment from Hancock, New York, to Matamoras, Pennsylvania.
- (7) Flathead, Montana: The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence with the South Fork; and the South Fork from its origin to Hungry Horse Reservoir.
- (8) Gasconade, Missouri: The entire river.
- (9) Illinois, Oregon: The entire river.
- (10) Little Beaver, Ohio: The segment of the North and Middle Forks of the Little Beaver River in Columbiana County from a point in the vicinity of Negly and Elkton, Ohio, downstream to a point in the vicinity of East Liverpool, Ohio.
- (11) Little Miami, Ohio: That segment of the main stem of the river, exclusive of its tributaries, from a point at the Warren-Clermont County line at Loveland, Ohio, upstream to the sources of Little Miami including North Fork.

(12) Maumee, Ohio and Indiana: The main stem from Perrysburg, Ohio, to Fort Wayne, Indiana, exclusive of its tributaries in Ohio and inclusive of its tributaries in Indiana.

(13) Missouri, Montana: The segment between Fort Benton and Ryan Island.

(14) Moyie, Idaho: The segment from the Canadian border to its confluence with the Kootenai River.

(15) Obed, Tennessee: The entire river and its tributaries, Clear Creek and Daddys Creek.

(16) Penobscot, Maine: Its east and west branches.

(17) Pere Marquette, Michigan: The entire river.

(18) Pine Creek, Pennsylvania: the segment from Ansonia to Waterville.

(19) Priest, Idaho: The entire main stem.

(20) Rio Grande, Texas: The portion of the river between the west boundary of Hudspeth County and the east boundary of Terrell County on the United States side of the river: *Provided*, That before undertaking any study of this potential scenic river, the Secretary of the Interior shall determine, through the channels of appropriate executive agencies, that Mexico has no objection to its being included among the studies authorized by this Act.

(21) Saint Croix, Minnesota and Wisconsin: The segment between the dam near Taylors Falls and its confluence with the Mississippi River.

(22) Saint Joe, Idaho: The entire main stem.

(23) Salmon, Idaho: The segment from the town of North Fork to its confluence with the Snake River.

(24) Skagit, Washington: The segment from the town of Mount Vernon to and including the mouth of Bacon Creek; the Cascade River between its mouth and the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the Glacier Peak Wilderness Area boundary at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the Glacier Peak Wilderness Area boundary.

(25) Suwannee, Georgia and Florida: The entire river from its source in the Okefenokee Swamp in Georgia to the gulf and the outlying Ichetucknee Springs, Florida.

(26) Upper Iowa, Iowa: The entire river.

(27) Youghiogheny, Maryland and Pennsylvania: The segment from Oakland, Maryland, to the Youghiogheny Reservoir, and from the Youghiogheny Dam downstream to the town of Connellsville, Pennsylvania.

(28) American, California: The North Fork from the Cedars to the Auburn Reservoir.

(29) Au Sable, Michigan: The segment downstream from Foot Dam to Oscoda and upstream from Loud Reservoir to its source, including its principal tributaries and excluding Mio and Bamfield Reservoirs.

(30) Big Thompson, Colorado: The segment from its source to the boundary of Rocky Mountain National Park.

(31) Cache la Poudre, Colorado: Both forks from their sources to their confluence, thence the Cache la Poudre to the eastern boundary of Roosevelt National Forest.

(32) Cahaba, Alabama: The segment from its junction with United States Highway 31 south of Birmingham downstream to its junction with United States Highway 80 west of Selma.

(33) Clarks Fork, Wyoming: The segment from the Clark's Fork Canyon to the Crandall Creek Bridge.

(34) Colorado, Colorado and Utah: The segment from its confluence with the Dolores River, Utah, upstream to a point 19.5 miles from the Utah-Colorado border in Colorado.

(35) Conejos, Colorado: The three forks from their sources to their confluence, thence the Conejos to its first junction with State Highway 17, excluding Platoro Reservoir.

(36) Elk, Colorado: The segment from its source to Clark.

(37) Encampment, Colorado: The Main Fork and West Fork to their confluence, thence the Encampment to the Colorado-Wyoming border, including the tributaries and headwaters.

(38) Green, Colorado: The entire segment within the State of Colorado.

(39) Gunnison, Colorado: The segment from the upstream (southern) boundary of the Black Canyon of the Gunnison National Monument to its confluence with the North Fork.

(40) Illinois, Oklahoma: The segment from Tenkiller Ferry Reservoir upstream to the Arkansas-Oklahoma border, including the Flint and Barren Fork Creeks.

(41) John Day, Oregon: The main stem from Service Creek Bridge (at river mile 157) downstream to Tumwater Falls (at river mile 10).

(42) Kettle, Minnesota: The entire segment within the State of Minnesota.

(43) Los Pinos, Colorado: The segment from its source, including the tributaries and headwaters within the San Juan Primitive Area, to the northern boundary of the Granite Peak Ranch.

(44) Manistee, Michigan: The entire river from its source to Manistee Lake, including its principal tributaries and excluding Tippy and Hodenpyl Reservoirs.

(45) Nolichucky, Tennessee and North Carolina: The entire main stem.

(46) Owyhee, South Fork, Oregon: The main stem from the Oregon-Idaho border downstream to the Owyhee Reservoir.

(47) Piedra, Colorado: The Middle Fork and East Fork from their sources to their confluence, thence the Piedra to its junction with Colorado Highway 10.

(48) Shepaug, Connecticut: The entire river.

(49) Sipsey Fork, West Fork, Alabama: The segment, including its tributaries, from the impoundment formed by the Lewis M. Smith Dam upstream to its source in the William B. Bankhead National Forest.

(50) Snake, Wyoming: The segment from the southern boundaries of Teton National Park to the entrance to Palisades Reservoir.

(51) Sweetwater, Wyoming: The segment from Wilson Bar downstream to Spring Creek.

(52) Tuolumne, California: The main river from its source on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir.

(53) Upper Mississippi, Minnesota: The segment from its source at the outlet of Itasca Lake to its junction with the northwestern boundary of the city of Anoka.

(54) Wisconsin, Wisconsin: The segment from Prairie du Sac to its confluence with the Mississippi River at Prairie du Chien.

(55) Yampa, Colorado: The segment within the boundaries of the Dinosaur National Monument.

(56) Dolores, Colorado: The segment of the main stem from Rico upstream to its source, including its headwaters; the West Dolores from its source, including its headwaters, downstream to its confluence with the main stem; and the segment from the west boundary, section 2, township 38 north, range 16 west, NMPM, below the proposed McPhee Dam, downstream to the Colorado-Utah border, excluding the segment from one mile above Highway 90 to the confluence of the San Miguel River.

(57) Snake, Washington, Oregon, and Idaho: The segment from an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, downstream to the town of Asotin, Washington.

(58) Housatonic, Connecticut: The segment from the Massachusetts-Connecticut boundary downstream to its confluence with the Shepaug River.

(59) KERN, CALIFORNIA.—The main stem of the North Fork from its source to Isabelle Reservoir excluding its tributaries.

(60) LOXAHATCHEE, FLORIDA.—The entire river including its tributary, North Fork.

(61) OGEECHEE, GEORGIA.—The entire river.

(62) SALT, ARIZONA.—The main stem from a point on the north side of the river intersected by the Fort Apache Indian Reservation boundary (north of Buck Mountain) downstream to Arizona State Highway 288.

(63) VERDE, ARIZONA.—The main stem from the Prescott National Forest boundary near Paulden to the vicinity of Table Mountain, approximately 14 miles above Horseshoe Reservoir, except for the segment not included in the national forest between Clarkdale and Camp Verde, North segment.

(64) SAN FRANCISCO, ARIZONA.—The main stem from confluence with the Gila upstream to the Arizona-New Mexico border, except for the segment between Clifton and the Apache National Forest.

(65) FISH CREEK, NEW YORK.—The entire East Branch.

(66) BLACK CREEK, MISSISSIPPI.—The segment from Big Creek Landing in Forrest County downstream to Old Alexander Bridge Landing in Stone County.

(67) ALLEGHENY, PENNSYLVANIA.—The main stem from Kinzua Dam downstream to East Brady.

(68) CACAPON, WEST VIRGINIA.—The entire river.

(69) ESCATAWPA, ALABAMA AND MISSISSIPPI.—The segment upstream from a point approximately one mile downstream from the confluence of the Escatawpa River and Jackson Creek to a point where the Escatawpa River is joined by the Yellowhouse Branch in Washington County, Alabama, near the town of Deer Park, Alabama; and the segment of Brushy Creek upstream from its confluence with the Escatawpa to its confluence with Scarsborough Creek.

(70) MYAKKA, FLORIDA.—The segment south of the southern boundary of the Myakka River State Park.

(71) SOLDIER CREEK, ALABAMA.—The segment beginning at the point where Soldier Creek intersects the south line of section 31, township 7 south, range 6 east, downstream to a point on the south line of section 6, township 8 south, range 6 east, which point is 1,322 feet west of the south line of section 5, township 8 south, range 6 east in the county of Baldwin, State of Alabama.

(72) RED, KENTUCKY.—The segment from Highway numbered 746 (also known as Spradlin Bridge) in Wolf County, Kentucky, downstream to the point where the river descends below seven hundred feet above sea level (in its normal flow) which point is at the Menifee and Powell County line just downstream of the iron bridge where Kentucky Highway numbered 77 passes over the river.

(73) BLUESTONE, WEST VIRGINIA.—From its headwaters to its confluence with the New.

(74) GAULEY, WEST VIRGINIA.—Including the tributaries of the Meadow and the Cranberry, from the headwaters to its confluence with the New.

(75) GREENBRIER, WEST VIRGINIA.—From its headwaters to its confluence with the New.

(76) BIRCH, WEST VIRGINIA.—The main stem from the Cora Brown Bridge in Nicholas County to the confluence of the river with the Elk River in Braxton County.

(77) Colville, Alaska.

(78) Etivluk-Nigu, Alaska.

(79) Utukok, Alaska.

(80) Kanektok, Alaska.

(81) Kisaralik, Alaska.

(82) Melozitna, Alaska.

(83) Sheenjok (lower segment), Alaska.

(84) Situk, Alaska.

(85) Porcupine, Alaska.

(86) Yukon (Ramparts section), Alaska.

(87) Squirrel, Alaska.

(88) Koyuk, Alaska.

(89) Wildcat Brook, New Hampshire: The segment from its headwaters including the principal tributaries to its confluence with the Ellis River. The study authorized in this paragraph shall be completed no later than six years from the date of enactment of this paragraph and an interim report shall be prepared and submitted to the Congress no later than three years from the date of enactment of this paragraph.

(90) Horsepasture, North Carolina: The segment from Bohaynee Road (N.C. 281) downstream to Lake Jocassee.

(91) The North Umpqua, Oregon: The segment from the Soda Springs Powerhouse to the confluence of Rock Creek. The provisions of section 7(a) shall apply to tributary Steamboat Creek in the same manner as such provisions apply to the rivers referred to in such section 7(a). The Secretary of Agriculture shall, in the Umpqua National Forest plan, provide that management practices for Steamboat Creek and its immediate environment conserve, protect, and enhance the anadromous fish habitat and population.

(92) FARMINGTON, WEST BRANCH, CONNECTICUT AND MASSACHUSETTS.—The segment from the intersection of the New Hartford-Canton, Connecticut, town line upstream to the base of the West Branch Reservoir in Hartland, Connecticut; and the segment from the confluence with Thorp Brook in Sandisfield, Massachusetts, to Hayden Pond in Otis, Massachusetts.

(93) Great Egg Harbor River, New Jersey: The entire river.

(94) Klickitat, Washington: The segment from the southern boundary of the Yakima Indian Reservation, Washington, as described in the Treaty with the Yakimas of 1855 (12 Stat. 951), and as acknowledged by the Indian Claims Commission in *Yakima Tribe of Indians v. U.S.*, 16 Ind. Cl. Comm. 536 (1966), to its confluence with the Little Klickitat River, Washington: *Provided*, That said study shall be carried on in consultation with the Yakima Indian Nation and shall include a determination of the degree to which the Yakima Indian Nation should participate in the preservation and administration of the river segment should it be proposed for inclusion in the Wild and Scenic Rivers system.

(95) White Salmon, Washington: The segment from its confluence with Trout Lake Creek, Washington, to its confluence with Gilmer Creek, Washington, near the town of B Z Corner, Washington. Studies of the river named in paragraphs (38), (55), (83), and (87) shall be completed and the reports transmitted to the Congress not later than January 1, 1987.

(96) MAURICE, NEW JERSEY.—The segment from Shell Pile to the point three miles north of Laurel Lake.

(97) MANUMUSKIN, NEW JERSEY.—The segment from its confluence with the Maurice River to the crossing of State Route 49.

(98) MENANTICO CREEK, NEW JERSEY.—The segment from its confluence with the Maurice River to its source.

(99) MERCED, CALIFORNIA.—The segment from a point 300 feet upstream of the confluence with Bear Creek downstream to the point of maximum flood control storage of Lake McClure (elevation 867 feet mean sea level).

(100) BLUE, OREGON.—The segment from its headwaters to the Blue River Reservoir; by the Secretary of Agriculture.

(101) CHEWAUCAN, OREGON.—The segment from its headwaters to the Paisley Urban Growth boundary to be studied in cooperation with, and integrated with, the Klamath River Basin Plan; by the Secretary of Agriculture.

(102) NORTH FORK MALHEUR, OREGON.—The segment from the Malheur National Forest boundary to Beulah Reservoir; by the Secretary of the Interior.

(103) SOUTH FORK MCKENZIE, OREGON.—The segments from its headwaters to the upper end of Cougar Reservoir and from the lower end of Cougar Reservoir to its confluence with the McKenzie River; by the Secretary of Agriculture.

(104) STEAMBOAT CREEK, OREGON.—The entire creek; by the Secretary of Agriculture.

(105) WALLOWA, OREGON.—The segment from its confluence with the Minam River to its confluence with the Grande Ronde River; by the Secretary of Agriculture.

(106) MERRIMACK RIVER, NEW HAMPSHIRE.—The segment from its origin at the confluence of the Pemigewasset and Winnepesaukee Rivers in Franklin, New Hampshire, to the back-

water impoundment at Hooksett Dam, excluding the Garvins Falls Dam and its impoundment.

(107) PEMIGEWASSET, NEW HAMPSHIRE.—The segments from Profile Lake downstream to the southern boundary of the Franconia Notch State Park and from the northern Thornton town-line downstream to the backwater of the Ayers Island Dam; by the Secretary of the Interior.

(108) ST. MARYS RIVER, FLORIDA AND GEORGIA.—The segment from its headwaters to its confluence with the Bells River.

(109) MILLS RIVER, NORTH CAROLINA.—The North Fork from the bottom of the spillway of the Hendersonville Reservoir downstream to its confluence with the South Fork; the South Fork from its confluence with the Pigeon Branch downstream to its confluence with the North Fork; and the main stem from the confluence of the North and South Forks downstream to a point 750 feet upstream from the centerline of North Carolina Highway 191/280.

(110) SUDBURY, ASSABET, AND CONCORD, MASSACHUSSETS.—The segment of the Sudbury from the Danforth Street Bridge in the town of Framingham, to its confluence with the Assabet, the Assabet from 1,000 feet downstream of the Damon Mill Dam in Concord to its confluence with the Sudbury and the Concord from the confluence of the Sudbury and Assabet downstream to the Route 3 Bridge in the town of Billerica. The study of such river segments shall be completed and the report submitted thereon not later than at the end of the third fiscal year beginning after the date of enactment of this paragraph.

(111) NIOBRARA, NEBRASKA.—The 6-mile segment of the river from its confluence with Chimney Creek to its confluence with Rock Creek.

(112) LAMPREY, NEW HAMPSHIRE.—The segment from the southern Lee town line downstream to the confluence with Woodman's Brook at the base of Sullivan Falls in Durham.

(113) WHITE CLAY CREEK, DELAWARE AND PENNSYLVANIA.—The headwaters of the river in Pennsylvania to its confluence with the Christina River in Delaware, including the East, West, and Middle Branches, Middle Run, Pike Creek, Mill Creek, and other main branches and tributaries as determined by the Secretary of the Interior (herein after referred to as the White Clay Creek).

(114) BRULE, MICHIGAN AND WISCONSIN.—The 33-mile segment from Brule Lake in the northeast quarter of section 15, township 41 north, range 13 east, to the National Forest boundary at the southeast quarter of section 31, township 41 north, range 17 east.

(115) CARP, MICHIGAN.—The 7.6-mile segment from its origin at the confluence of the outlets of Frenchman Lake and Carp Lake in section 26, township 44 north, range 6 west, to the west section line of section 30, township 43 north, range 5 west.

(116) LITTLE MANISTEE, MICHIGAN.—The 42-mile segment within the Huron-Manistee National Forest.

(117) WHITE, MICHIGAN.—The 75.4-mile segment within the Huron-Manistee National Forest as follows:

(A) The 30.8-mile segment of the main stem from U.S. 31 to the Huron-Manistee National Forest boundary at the north line of section 2, township 13 north, range 15 west, 1.5 miles southwest of Hesperia.

(B) The 18.9-mile segment of the South Branch White from the Huron-Manistee National Forest boundary east of Hesperia at the west line of section 22, township 14 north, range 14 west, to Echo Drive, section 6, township 13 north, range 12 west.

(C) The 25.7-mile segment of the North Branch White from its confluence with the South Branch White in section 25, township 13 north, range 16 west, to McLaren Lake in section 11, township 14 north, range 15 west.

(118) ONTONAGON, MICHIGAN.—The 32-mile segment of the Ontonagon as follows:

(A) The 12-mile segment of the West Branch from the Michigan State Highway 28 crossing to Cascade Falls.

(B) The 20-mile segment of the South Branch from the confluence of the Cisco Branch and Tenmile Creek to the confluence with the West Branch Ontonagon.

(119) PAINT, MICHIGAN.—The 70-mile segment as follows:

(A) 34 miles of the mainstream beginning at the eastern boundary of the Ottawa National Forest in section 1, township 44 north, range 35 west, to the city of Crystal Falls.

(B) 15 miles of the mainstream of the Net River from its confluence with the east and west branches to its confluence with the mainstream of the Paint River.

(C) 15 miles of the east branch of the Net River from its source in section 8, township 47 north, range 32 west, to its confluence with the mainstream of the Net River in section 24, township 46 north, range 34 west.

(D) 14 miles of the west branch of the Net River from its source in section 35, township 48 north, range 34 west, to its confluence with the mainstream of the Net River in section 24, township 46 north, range 34 west.

(120) PRESQUE ISLE, MICHIGAN.—The 13-mile segment of the mainstream from Minnewawa Falls to Lake Superior.

(121) STURGEON, OTTAWA NATIONAL FOREST, MICHIGAN.—The 36-mile segment of the mainstream from the source at Wagner Lake in section 13, township 49 north, range 31 west, to the eastern boundary of the Ottawa National Forest in section 12, township 48 north, range 35 west.

(122) STURGEON, HIAWATHA NATIONAL FOREST, MICHIGAN.—The 18.1-mile segment from Sixteen Mile Lake to the north line of section 26, township 43 north, range 19 west.

(123) TAHQUAMENON, MICHIGAN.—The 103.5-mile segment as follows—

(A) the 90-mile segment of the mainstream beginning at the source in section 21, township 47 north, range 12 west, to the mouth at Whitefish Bay; and

(B) the 13.5-mile segment of the east branch from the western boundary of the Hiawatha National Forest in section 19, township 46 north, range 6 west, to its confluence with the mainstream.

(124) WHITEFISH, MICHIGAN.—The 26-mile segment of the West Branch Whitefish from its source in section 26, township 46 north, range 23 west, to County Road 444.

(125) CLARION, PENNSYLVANIA.—The segment of the main stem of the river from Ridgway to its confluence with the Allegheny

River. The Secretary of Agriculture shall conduct the study of such segment.

(126) MILL CREEK, JEFFERSON AND CLARION COUNTIES, PENNSYLVANIA.—The segment of the main stem of the creek from its headwaters near Gumbert Hill in Jefferson County, downstream to the confluence with the Clarion River.

(127) PIRU CREEK, CALIFORNIA.—The segment of the main stem of the creek from its source downstream to the maximum pool of Pyramid Lake and the segment of the main stem of the creek beginning 300 feet below the dam at Pyramid Lake downstream to the maximum pool at Lake Piru, for a total distance of approximately 49 miles.

(128) LITTLE SUR RIVER, CALIFORNIA.—The segment of the main stem of the river from its headwaters downstream to the Pacific Ocean, a distance of approximately 23 miles. The Secretary of Agriculture shall consult with the Big Sur Multiagency Advisory Council during the study of the river.

(129) MATILJA CREEK, CALIFORNIA.—The segment from its headwaters to its junction with Murietta Canyon, a distance of approximately 16 miles.

(130) LOPEZ CREEK, CALIFORNIA.—The segments from its headwaters to Lopez Reservoir, a distance of approximately 11 miles.

(131) SESPE CREEK, CALIFORNIA.—The segment from Chorro Grande Canyon downstream to its confluence with Rock Creek and Howard Creek, a distance of about 10.5 miles.

(132) NORTH FORK MERCED, CALIFORNIA.—The segment from its headwaters to its confluence with the Merced River, by the Secretary of Agriculture and the Secretary of the Interior.

(133) DELAWARE RIVER, PENNSYLVANIA AND NEW JERSEY.—(A) The approximately 3.6-mile segment from the Erie Lackawanna Railroad Bridge to the southern tip of Dildine Island.

(B) The approximately 2-mile segment from the southern tip of Mack Island to the northern border of the town of Belvidere, New Jersey.

(C) The approximately 12.5-mile segment from the southern border of the town of Belvidere, New Jersey, to the northern border of the city of Easton, Pennsylvania, excluding river mile 196.0 to 193.8.

(D) The approximately 9.5-mile segment from the southern border of the town of Phillipsburg, New Jersey, to a point just north of the Gilbert Generating Station.

(E) The approximately 14.2-mile segment from a point just south of the Gilbert Generating Station to a point just north of the Point Pleasant Pumping Station.

(F) The approximately 6.5-mile segment from a point just south of the Point Pleasant Pumping Station to the north side of the Route 202 bridge.

(G) The approximately 6-mile segment from the southern boundary of the town of New Hope, Pennsylvania, to the town of Washington Crossing, Pennsylvania.

(H) The Cook's Creek tributary.

(I) The Tinicum Creek tributary.

(J) The Tohickon Creek tributary.

(134) NEW RIVER, WEST VIRGINIA AND VIRGINIA.—The segment defined by public lands commencing at the U.S. Route 460 bridge

over the New River in Virginia to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake in West Virginia; by the Secretary of the Interior. Nothing in this Act shall affect or impair the management of the Bluestone project or the authority of any department, agency or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. The study of the river segment identified in this paragraph shall be completed and reported on within one year after the date of enactment of this paragraph.

(135) RIO GRANDE, NEW MEXICO.—The segment from the west section line of Section 15, Township 23 North, Range 10 East, downstream approximately 8 miles to the southern line of the northwest quarter of Section 34, Township 23 North, Range 9 East.

(136) WEKIVA RIVER, FLORIDA.—(A) The entire river.

(B) The Seminole Creek tributary.

(C) The Rock Springs Run tributary.

(137) TAUNTON RIVER, MASSACHUSETTS.—The segment downstream from the headwaters, from the confluence of the Town River and the Matfield River in Bridgewater to the confluence with the Forge River in Raynham, Massachusetts.

(138) EIGHTMILE RIVER, CONNECTICUT.—The segment from its headwaters downstream to its confluence with the Connecticut River.

(139) LOWER FARMINGTON RIVER AND SALMON BROOK, CONNECTICUT.—The segment of the Farmington River downstream from the segment designated as a recreational river by section 3(a)(156) to its confluence with the Connecticut River, and the segment of the Salmon Brook including its mainstream and east and west branches.

(140) MISSISQUOI AND TROUT RIVERS, VERMONT.—The approximately 25-mile segment of the upper Missisquoi from its headwaters in Lowell to the Canadian border in North Troy, the approximately 25-mile segment from the Canadian border in East Richford to Enosburg Falls, and the approximately 20-mile segment of the Trout River from its headwaters to its confluence with the Missisquoi River.

( ) YORK RIVER, MAINE.—(A) *The York River that flows 11.25 miles from its headwaters at York Pond to the mouth of the river at York Harbor, and all associated tributaries.*

(B) *The study conducted under this paragraph shall—*

(i) *determine the effect of the designation on—*

(I) *existing commercial and recreational activities, such as hunting, fishing, trapping, recreational shooting, motor boat use, bridge construction;*

(II) *the authorization, construction, operation, maintenance, or improvement of energy production and transmission infrastructure; and*

(III) *the authority of State and local governments to manage those activities; and*

(ii) *identify—*

(I) *all authorities that will authorize or require the Secretary to influence local land use decisions (such as zoning) or place restrictions on non-Federal land if designated under this Act;*

*(II) all authorities that the Secretary may use to condemn property; and*

*(III) all private property located in the area studied under this paragraph.*

(b)(1) The studies of rivers named in subparagraphs (28) through (55) of subsection (a) of this section shall be completed and reports thereon submitted by not later than October 2, 1979: *Provided*, That with respect to the rivers named in subparagraphs (33), (50), and (51), the Secretaries shall not commence any studies until (i) the State legislature has acted with respect to such rivers or (ii) one year from the date of enactment of this Act, whichever is earlier. Studies of the river named in paragraphs (38), (55), (83), and (87) shall be completed and the reports transmitted to the Congress not later than January 1, 1987.

(2) The study of the river named in subparagraph (56) of subsection (a) of this section shall be completed and the report thereon submitted by not later than January 3, 1976.

(3) The studies of the rivers named in paragraphs (59) through (76) of subsection (a) shall be completed and reports submitted thereon not later than five full fiscal years after the date of the enactment of this paragraph. The study of rivers named in paragraphs (62) through (64) of subsection (a) shall be completed and the report thereon submitted by not later than April 1981. The study of the river named in paragraph (90) of subsection (a) shall be completed not later than three years after the date of the enactment of this sentence. The study of the river named in paragraph (93) of subsection (a) shall be completed not later than three years after the date of the enactment of this sentence.

(4) For the purposes of conducting the studies of the rivers named in subsection (a), there are authorized to be appropriated such sums as necessary.

(5) The studies of the rivers in paragraphs (77) through (88) shall be completed and reports transmitted thereon not later than three full fiscal years from date of enactment of this paragraph. For the rivers listed in paragraphs (77), (78), and (79) the studies prepared and transmitted to the Congress pursuant to section 105(c) of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258) shall satisfy the requirements of this section.

(6) Studies of rivers listed in paragraphs (80) and (81) shall be completed, and reports submitted within and not later than the time when the Bristol Bay Cooperative Region Plan is submitted to Congress in Accordance with section 1204 of the Alaska National Interest Lands Conservation Act.

(7) The study of the West Branch of the Framington River identified in paragraph (92) of subsection (a) shall be completed and the report submitted thereon not later than the end of the third fiscal year beginning after the enactment of this paragraph. Such report shall include a discussion of management alternatives for the river if it were to be included in the national wild and scenic river system.

(8) The study of the Merrimack River, New Hampshire, shall be completed and the report thereon submitted not later than three years after the date of enactment of this paragraph.

(9) The study of the Pemigewasset River, New Hampshire, shall be completed and the report thereon submitted not later than three years after the date of enactment of this paragraph.

(10) The study of the river named in paragraph (106) of subsection (a) shall be completed not later than three years after the date of enactment of this paragraph. In carrying out the study, the Secretary of the Interior shall consult with the Governors of the States of Florida and Georgia or their representatives, representatives of affected local governments, and owners of land adjacent to the river. Such consultation shall include participation in the assessment of resource values and the development of alternatives for the protection of those resource values, and shall be carried out through public meetings and media notification. The study shall also include a recommendation on the part of the Secretary as to the role the States, local governments and landowners should play in the management of the river if it were designated as a component of the National Wild and Scenic Rivers System.

(11) The study of the Lamprey River, New Hampshire, shall be completed by the Secretary of the Interior and the report thereon submitted not later than 3 years after the date of enactment of this paragraph.

(12)(A) The study of the White Clay Creek in Delaware and Pennsylvania shall be completed and the report submitted not later than 3 years after the date of enactment of this paragraph.

(B) In carrying out the study, the Secretary of the Interior shall prepare a map of the White Clay Creek watershed in Delaware and Pennsylvania, and shall develop a recommended management plan for the White Clay Creek. The plan shall provide recommendations as to the protection and management of the White Clay Creek, including the role the State and local governments, and affected landowners, should play in the management of the White Clay Creek if it is designated as a component of the National Wild and Scenic Rivers System.

(C) The Secretary shall prepare the study, including the recommended management plan, in cooperation and consultation with appropriate State and local governments, and affected landowners.

(13) The study of segments of the Brule, Carp, Little Manistee, White, Paint, Presque Isle, Ontonagon, Sturgeon (Hiawatha), Sturgeon (Ottawa), Whitefish, and Tahquamenon Rivers in Michigan under subsection (a) shall be completed by the Secretary of Agriculture and the report submitted thereon not later than at the end of the third fiscal year beginning after the date of enactment of this paragraph. For purposes of such river studies, the Secretary shall consult with each River Study Committee authorized under section 5 of the Michigan Scenic Rivers Act of 1990, and shall encourage public participation and involvement through hearings, workshops, and such other means as are necessary to be effective.

(14)(A) The study of the Delaware River segments and tributaries designated for potential addition to the National Wild and Scenic Rivers System pursuant to section 5(a)() of this Act shall be completed and the report submitted to Congress not later than one year after the date of enactment of this paragraph.

(B) The Secretary shall—

(i) prepare the study in cooperation and consultation with appropriate Federal, State, regional, and local agencies, includ-

ing but not limited to, the Pennsylvania Department of Environmental Resources, the New Jersey Department of Environmental Protection and Energy, the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, and the Delaware and Raritan Canal Commission; and

(ii) consider previous plans for the protection of affected cultural, recreational, and natural resources (including water supply and water quality) and existing State and local regulations, so as to avoid unnecessary duplication.

(C) Pursuant to section 11(b)(1) of this Act, the Secretary shall undertake a river conservation plan for the segment of the Delaware River from the northern city limits of Trenton, New Jersey, to the Southern boundary of Bucks County, Pennsylvania.

(15) The study of the Rio Grande in New Mexico shall be completed and the report submitted not later than 3 years after the date of enactment of this paragraph.

(16) The study of the Wekiva River and the tributaries designated in paragraph (136) of subsection (a) shall be completed and the report transmitted to Congress not later than two years after the date of the enactment of this paragraph.

(17) TAUNTON RIVER, MASSACHUSETTS.—Not later than 3 years after the date of the enactment of this paragraph, the Secretary of the Interior—

(A) shall complete the study of the Taunton River, Massachusetts; and

(B) shall submit to Congress a report describing the results of the study.

(18) The study of the Eightmile River, Connecticut, named in paragraph (138) of subsection (a) shall be completed by the Secretary of the Interior and the report thereon submitted to Congress not later than 3 years after the date of the enactment of this paragraph.

(19) MISSISQUOI AND TROUT RIVERS, VERMONT.—Not later than 3 years after the date on which funds are made available to carry out this paragraph, the Secretary of the Interior shall—

(A) complete the study of the Missisquoi and Trout Rivers, Vermont, described in subsection (a)(140); and

(B) submit a report describing the results of that study to the appropriate committees of Congress.

( ) YORK RIVER, MAINE.—*The study of the York River, Maine, named in paragraph ( ) of subsection (a) shall be completed by the Secretary of the Interior and the report thereon submitted to Congress not later than 3 years after the date on which funds are made available to carry out this paragraph.*

(c) The study of any of said rivers shall be pursued in as close cooperation with appropriate agencies of the affected State and its political subdivisions as possible, shall be carried on jointly with such agencies if request for such joint study is made by the State, and shall include a determination of the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

(d)(1) In all planning for the use and development of water and related land resources, consideration shall be given by all Federal agencies involved to potential national wild, scenic and recreational

river areas, and all river basin and project plan reports submitted to the Congress shall consider and discuss any such potentials. The Secretary of the Interior and the Secretary of Agriculture shall make specific studies and investigations to determine which additional wild, scenic and recreational river areas within the United States shall be evaluated in planning reports by all Federal agencies as potential alternative uses of the water and related land resources involved.

(2) The Congress finds that the Secretary of the Interior, in preparing the Nationwide Rivers Inventory as a specific study for possible additions to the National Wild and Scenic Rivers System, identified the Upper Klamath River from below the John Boyle Dam to the Oregon-California State line. The Secretary, acting through the Bureau of Land Management, is authorized under this subsection to complete a study of the eligibility and suitability of such segment for potential addition to the National Wild and Scenic Rivers System. Such study shall be completed, and a report containing the results of the study shall be submitted to Congress by April 1, 1990. Nothing in this paragraph shall affect the authority or responsibilities of any other Federal agency with respect to activities or actions on this segment and its immediate environment.

\* \* \* \* \*

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113TH CONGRESS  
1ST SESSION

# S. 1520

To amend the Wild and Scenic Rivers Act to designate segments of the York River and associated tributaries for study for potential inclusion in the National Wild and Scenic Rivers System.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2013

Mr. KING introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the Wild and Scenic Rivers Act to designate segments of the York River and associated tributaries for study for potential inclusion in the National Wild and Scenic Rivers System.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “York River Wild and  
5 Scenic River Study Act of 2013”.

1 **SEC. 2. YORK RIVER STUDY.**

2 (a) DESIGNATION FOR STUDY.—Section 5(a) of the  
3 Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amend-  
4 ed by adding at the end the following:

5 “(141) YORK RIVER, MAINE.—The segment of  
6 the York River that flows 11.25 miles from the  
7 headwaters of the York River at York Pond to the  
8 mouth of the river at York Harbor, and any associ-  
9 ated tributaries.”.

10 (b) STUDY AND REPORT.—Section 5(b) of the Wild  
11 and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended  
12 by adding at the end the following:

13 “(20) YORK RIVER, MAINE.—

14 “(A) IN GENERAL.—Not later than 3 years  
15 after the date on which funds are made avail-  
16 able to carry out this paragraph, the Secretary  
17 of the Interior shall—

18 “(i) complete the study of York River,  
19 Maine, described in subsection (a)(141);  
20 and

21 “(ii) submit to the appropriate com-  
22 mittees of Congress a report that describes  
23 the results of the study.

24 “(B) REQUIREMENTS.—In conducting the  
25 study referred to in subparagraph (A)(i), the  
26 Secretary of the Interior shall—

1           “(i) determine the effect of the des-  
2           ignation on—

3                   “(I) existing commercial and rec-  
4                   reational activities, such as hunting,  
5                   fishing, trapping, recreational shoot-  
6                   ing, motor boat use, and bridge con-  
7                   struction;

8                   “(II) the authorization, construc-  
9                   tion, operation, maintenance, or im-  
10                  provement of energy production and  
11                  transmission infrastructure; and

12                  “(III) the authority of State and  
13                  local governments to manage the ac-  
14                  tivities described in subclause (I); and

15           “(ii) identify—

16                   “(I) any authorities that would  
17                   authorize or require the Secretary of  
18                   the Interior—

19                           “(aa) to influence local land  
20                           use decisions, such as zoning; or

21                           “(bb) to place restrictions on  
22                           non-Federal land if designated  
23                           under this Act;

1                   “(II) any authorities that the  
2                   Secretary of the Interior may use to  
3                   condemn property; and

4                   “(III) any private property lo-  
5                   cated in the area studied under sub-  
6                   section (a)(141).”.

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5

## Stephen H. Burns

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**From:** Michael Dow [madow@maine.rr.com](mailto:madow@maine.rr.com)  
**Sent:** Friday, December 05, 2014 8:33 AM  
**To:** Stephen H. Burns; Mary Andrews  
**Subject:** York River Wild & Scenic thoughts  
**Attachments:** Wild and Scenic study act 2013 PDF.pdf

I have been told by a couple of people of a bill or document pertaining to this proposed Congressional bill with no onerous language in it. After consideration, I realized that is a moot point. The actual language of the bill that passed the House of Representatives and is now being sponsored by Senator King in the Senate is what counts here. Everything else only serves as a distraction that leads us away from the onerous text in those two bills and what that text implies for York, it's citizens and taxpayers if the bill is passed and made the law of the land. The two links below will take you to the latest version of these two bills. Please note that the version sponsored by democrat representative Pingree has already passed a vote in the House of Representatives.

It has been postulated that these bills are only to institute a "study" of York River and it's tributaries. In fact, that word is part of the title of both the House Bill passed on March 4, 2014 and the pending bill that was passed onto the Senate on March 5, 2014. See the links below. Here is a question that so far no one has answered: If it is only a "study" then why does it need to have the following language in it?

*"identify all authorities that will authorize or require the Secretary to influence local land use decisions (such as zoning) or place restrictions on non-Federal land if designated under this Act; all authorities that the Secretary may use to condemn property; and all private property located in the area studied under this paragraph."*

That is the exact text from HR2197 as of Mar 5, 2014 (Referred to Senate Committee) - See links below. Again, if it is only a "Study," why is this unfriendly language in it?

My answer to that question is simple and I believe accurate. The first step in restricting and regulating anything is to identify that which you want to restrict and regulate. That is exactly what this "study" does. It identifies those things that will be restricted and regulated when the larger bill is passed in the future. This "study" is the camel's nose under the tent. After a few years we will be told that the next step is to bring the York River and it's tributaries under the federal umbrella of the National Wild and Scenic Rivers System. The York River and it's tributaries cover a large amount of York's total land area. More than that, it involves all of York's zoning ordinances as well. So the level of impact on our community is beyond knowing.

Here is the actual text of the bill: Please see second link below. My bold underline.

"H. R. 2197

IN THE SENATE OF THE UNITED STATES

March 5, 2014

Received; read twice and referred to the Committee on Energy and Natural Resources

**To amend the Wild and Scenic Rivers Act to designate segments of the York River and associated tributaries for study for potential inclusion in the National Wild and Scenic Rivers System."**

<http://www.gop.gov/bill/h-r-2197-york-river-wild-and-scenic-river-study-act-of-2013/>

<https://www.govtrack.us/congress/bills/113/hr2197/text>

So, this "Study" is just the first act and it sets the stage for the rest of the play. That performance includes the condemning (taking by emanate domain) of private lands and all of York's zoning ordinances having to conform to National Park Service regulations. It is the first move in a game that if allowed to play out will mean York will loose local control of it's land use ordinances and private citizens land will be subject to having private property condemned at the whim of the National Park Service regulations.

I have showed this proposed "study" law to friends, neighbors, citizens prominent in local politics, town employees in leadership positions, organizations and businesses in York, Kittery and Eliot and the sound of the crickets was almost deafening. To date, no one I have spoken to about this Act had a clue about the unsettling language it contains and I have spoken to many people. Not a single person! This fact is troubling as there has been no public hearings to date. How is it that we are going to have this "study" forced upon us and we the citizens and voters of York did not get a chance to vote on it, let alone see it survive the crucible of public debate? Are there any other "studies" with unexplained, onerous language coming our way that maybe we should know about? The comments I have heard the most from voters are: "How did this thing get this far with no public hearings? Why didn't I get a chance to vote on it?"

When I first looked on the Internet for this bill I ran into Report 113–223 dated May 23, 2013 and Introduced in House by one Mr. HASTINGS of Washington, from the Committee on Natural Resources. Please see the attached PDF document which is also available through the first link above. I have taken the liberty to copy three important paragraphs from page two of this report bill below. I call them important because they clearly cover the bill's unexplained, troubling and onerous language. They also cover some concepts concerning the potential impact of this language that I believe are very important for York citizens to be aware of. Underlines and **bold** highlights are mine.

*(2) H.R. 2197 includes several critical components to **the study** that will be undertaken by the NPS. First, NPS is required to consider the effect of designation on commercial and recreational uses, such as hunting, fishing and boating. Second, NPS must look at the impact on construction and maintenance of energy production and transmission. Third, NPS must identify private property*

within the study area and identify all authorities that could be utilized to condemn land.

(3) Concerns have been raised that the Wild and Scenic Rivers Act contains several authorities allowing the federal condemnation of private property. As Wild and Scenic Rivers are purported to be locally-driven projects, the Committee sees no reason why property owners should be left in the dark regarding the inclusion of their property in a federal designation. **For the study process to be authentically derived from the community, the facts and limitations on property rights that may result from a designation must be revealed.**

(4) Finally, **the study** will identify those authorities **that compel NPS to involve itself in local zoning.** While federal designation of the York River may be appealing to some, the community should be aware that the Wild and Scenic Rivers Act requires local zoning to conform to the dictates of the Act. Representatives of the federal government would have a role in the development of local zoning ordinances. It should be noted that **the study** not only includes the York River, but tributaries as well. The size and scope of the resulting designation could be well beyond what is currently anticipated in the impacted towns.

Please look at #3 again. Certainly the process of acquiring the \$500,000 of "free" money for the "study" has not revealed anything of these three paragraphs to anyone. Again, everyone I spoke to were completely "in the dark" concerning this study's actual language and overall intent. Again, how is it that we are going to have this "study" forced upon us with no public hearings (save the one on Monday the 8th,) no public input or debate, no discourse and no chance to vote on whether we want it or not? The process has been incomplete because it has not gone through the crucible of public debate, say nothing of full disclosure. And speaking of "free money," when was the last time any of us saw a half a million dollars coming from the Federal Government with no strings attached? I call it robbing America's middle class taxpayers to pay a rich town to do something they should do for themselves.

The clear intent of this benign "study" is to eventually lead us to inclusion in the National Wild and Scenic Rivers System. Once there, the potential of condemning private property and the loss of local control of our zoning ordinances is inevitable. If that is such a great idea then the argument for it should be made face to face with the citizens of York and more than one time. If it is still a good idea after that process and public support is behind it, the citizens of York should be the authors of all the regulations, condemn the private properties and take the credit for protecting our wonderful treasure, the York River. This is our town and our river. Choosing to give those powers to the Federal Government rather than to the voters and tax payers of York is just a bad idea. The citizens of York should be the ones taking responsibility for their town and all that is in it. If York River needs more protection then citizens of York should be the ones doing it.

I am the only person in town who served on both Comprehensive Plan steering committees. Members of those committees went out into the community and spoke to as many people as we could about that proposed plan. Voters would invite us into their houses where they had called together their neighbors and we came and explained what it was all about. I remember Al Bibb and I went out to a house one evening after dark and spoke to just one person who was uncomfortable with some aspect of the plan. Just ONE person. If memory serves that program went on for a

number of months. To my way of thinking, that is the type of community outreach that has to happen if any group wants to convince citizens what you are asking them to do is the right thing. I guess that method is now obsolete and the current thinking is to go straight to the Federal Government to set the stage for onerous regulations you think the Town's river and land need. I strongly disagree with that method.

6

**York River Study Bill**  
**December 8, 2014 hearing**  
**INFORMATION PACKET FOR SELECTMEN**  
**From Friends of the York River**

**What?** The York River Study Bill is for a federal grant of up to \$300K for a study of the York River. Funds for such studies are appropriated annually in the National Park Service (NPS) budget – they are not new funds. The Bill would direct the funds to Maine instead of another state.

There are no matching funds required for this grant and no next step after the study is required. It is totally up to the community whether or not it wants to take any next step after the study.

Other than implementing the study, the only change during the study period would be that any \*federally funded\* project that would impact the river would receive National Park Service review during its permitting. This would end after the 3-year study period if no next step is taken by the community toward designation.

**Why?** The York River is a unique and special river, yet there is so much we don't know about it. It is one of only a few rivers in Maine that remains un-dammed and it has unique and notable natural, cultural, historical, recreational, scenic and other resources. It is important to our local economy and our identity.

**Who?** A local study committee – composed of people who represent a broad spectrum of the community – will implement the grant.

**How?** Study funds will be used to: 1) fill gaps in our knowledge of the river and 2) facilitate a community discussion about the future of the river. This will include an exploration of whether or not the community would be interested in seeking designation as a Partnership Wild & Scenic River in the future. No is a perfectly acceptable answer.

What is studied will be determined by the local study committee and local scientists, historians, and other professionals will be hired to carry out the work. Topics might include the river's contribution to our economy, the richness of the river's fisheries and re-opening clam flats for recreational harvest.

**When?** If the Study Bill passes the Senate before this Congress adjourns, funding should be available next year – likely in the Fall. The study committee would have 3 years to carry out research and community outreach.

**Specific concerns raised on page 2 of the House Report  
that accompanied the House Bill:**

**PLEASE NOTE:** ONLY a STUDY of the river is being considered at this point – NOT DESIGNATION. The concerns raised apply to designation and not a study but merit exploration and research should the \*community\* decide to take the next step to pursue designation following a study.

Page 2 of the House Report that accompanied the York River Study Bill (HR 2197) has raised questions about whether or not federal condemnation (taking) of land and federal involvement in local zoning could be a factor with any future designation of the river. The staff that co-wrote this report with the Committee (Casey Hammond, 202-225-2761) explained that this is standard language used in all Wild & Scenic House Reports that accompany House Bills. Casey acknowledged that the concerns raised have not been an issue in any of the \*Partnership\* Wild & Scenic River programs - the same program the York River would be in. **In all designated Partnership model rivers, National Park Service (NPS) ownership of land is prohibited and local zoning satisfies the requirements of the Act** but, ONLY A STUDY IS BEING CONSIDERED AT THIS POINT.

Both the House and Senate bills include **language protective of the community** that was added by conservative Republican Representative Doc Hastings of Washington state. The language requires that the study 1) **determine the effect** that a future designation would have on 3 categories of activities that do or could occur on the river and 2) **identify** all authorities that the Secretary of the Interior would have in a future designation to condemn (take) land or get involved in local zoning. **Once a study is complete, the community will decide whether or not to take any step toward designation** and this language will ensure that all “strings” attached to a designation are clear.

For your edification, the following attachments provide additional information.

- 1) Attachment 1 - Excerpt from the House Bill – “York River Wild and Scenic River Study Act of 2014” (similar language as Senate Bill) with language protective of the community highlighted.
- 2) Attachment 2 - National Park Service Fact Sheet about the \*Partnership\* model of Wild & Scenic Rivers designation. This makes the points that, under this program, NPS cannot even own land – much less take it – and will not be involved in local zoning.

If desired, model language from a designation bill for another \*Partnership\* Wild & Scenic River in New England can be provided to demonstrate that **NPS cannot own land along the river – even if willing landowners want to sell it to them** - and that **local zoning satisfies the requirements of the act**. However, ONLY A STUDY IS BEING CONSIDERED NOW.

Attachment ①

113TH  
CONGRESS  
2D SESSION

# H. R. 2197

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2014

Received; read twice and referred to the Committee on Energy and Natural Resources

## AN ACT

To amend the Wild and Scenic Rivers Act to designate segments of the York River and associated tributaries for study for potential inclusion in the National Wild and Scenic Rivers System.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “York River Wild and Scenic River Study Act of 2014”.

### SEC. 2. DESIGNATION FOR STUDY.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end the following:

“( ) YORK RIVER, MAINE.—(A) The York River that flows 11.25 miles from its headwaters at York Pond to the mouth of the river at York Harbor, and all associated tributaries.

“(B) The study conducted under this paragraph shall—

“(i) determine the effect of the designation on—

“(I) existing commercial and recreational

①  
cont.

activities, such as hunting, fishing, trapping, recreational shooting, motor boat use, bridge construction;

“(II) the authorization, construction, operation, maintenance, or improvement of energy production and transmission infrastructure; and

“(III) the authority of State and local governments to manage those activities; and

“(ii) identify—

“(I) all authorities that will authorize or require the Secretary to influence local land use decisions (such as zoning) or place restrictions on non-Federal land if designated under this Act;

“(II) all authorities that the Secretary may use to condemn property; and

“(III) all private property located in the area studied under this paragraph.”

**SEC. 3. STUDY AND REPORT.**

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end the following:

“( ) YORK RIVER, MAINE.—The study of the York River, Maine, named in paragraph ( ) of subsection (a) shall be completed by the Secretary of the Interior and the report thereon submitted to Congress not later than 3 years after the date on which funds are made available to carry out this paragraph.”

Passed the House of Representatives March 4, 2014.

Attest:

KAREN L. HAAS,  
Clerk

# Attachment 2

## What is a Partnership Wild and Scenic River?



National  
Park Service  
U.S. Department  
of the Interior

Partnership Rivers News is published by the Partnership Rivers in the Wild & Scenic Rivers Program.

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**For more information:**  
[www.nps.gov/pwsvr](http://www.nps.gov/pwsvr)

The National Park Service cares for the special places saved by the American people so that all may experience our heritage.

**EXPERIENCE  
YOUR AMERICA**

Over the past 20 years, river conservation interests at the local, state, and federal levels have worked collaboratively to use the National Wild and Scenic Rivers Act in an effective, partnership-based approach to national river conservation and designation. Once dubbed "Private Lands Rivers," this growing collaborative of rivers has been recognized by the US Congress as a distinct and locally responsive application of the Wild and Scenic Rivers Act.

Partnership Wild and Scenic Rivers, as they are now referred to, are federally designated components of the National Wild and Scenic Rivers System that share the following:

- No lands are federally owned, and federal ownership and management are not authorized in legislation or recommended in the River Management Plan (see below).
- Administration of the designation and implementation of the Management Plan are accomplished through a broadly participatory "Council" or "Committee" organized on each river specifically for this purpose.
- Land use continues to be governed by local communities and state statutes, as prior to designation.
- On designated rivers the National Park Service is responsible for reviewing federally funded, sponsored or licensed projects to ensure federal consistency in pre-

serving the identified "Outstandingly Remarkable Values" for which the river was designated. This responsibility is coordinated with each river's council or committee. NPS is also authorized to provide technical and financial assistance to the river organizations.

- The River Management Plan is locally developed and implemented through a broadly participatory process. The plan is locally approved and endorsed by relevant state and federal authorities prior to federal designation. The plan forms the basis of the designation and guides post-designation management.
- The costs and responsibilities associated with managing and protecting river resources are shared among all of the partners—local, state, federal, and non-governmental. Landowner participation and volunteerism are essential elements of the partnership.

Outside of this basic, shared framework, Partnership Rivers vary widely in the details of their administration and management, which are based on their wide-ranging physical, biological, and political characteristics.

As new rivers are designated, the model will evolve and adapt. We hope and believe that the basic tenets outlined above can continue to serve as a guide for existing and future Partnership Wild and Scenic Rivers.

—A Message From the Partnership Rivers



## Wild & Scenic Rivers—Partnership Program Contact Information

### Comments? Contact:

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**Philadelphia:**  
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### Local Contacts

Farmington River

Farmington River  
[www.FarmingtonRiver.org](http://www.FarmingtonRiver.org)

Great Egg Harbor River

The Great Egg Harbor Watershed Association  
[www.greategg.org](http://www.greategg.org)

Lamprey River

Lamprey River Advisory Committee  
[www.lampreyriver.org](http://www.lampreyriver.org)

Lower Delaware River

Delaware River Greenway Partnership  
[www.state.nj.us/drbc/wild\\_scenic.htm](http://www.state.nj.us/drbc/wild_scenic.htm)

Maurice River

Citizens United  
[www.cumauriceriver.org/pages/maurice.html](http://www.cumauriceriver.org/pages/maurice.html)

Sudbury, Assabet, and Concord Rivers

River Stewardship Council  
[www.sudbury-Assabet-Concord.org](http://www.sudbury-Assabet-Concord.org)

Wekiwa River

FL-DEP, Wekiwa Springs State Park  
[www.floridastateparks.org/wekiwasprings](http://www.floridastateparks.org/wekiwasprings)

White Clay Creek

White Clay Creek Watershed Association  
<http://mercury.ccil.org/~wcwa/>

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Helping communities preserve and manage their own rivers in the National Wild and Scenic Rivers System

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# Wild and Scenic River Reconnaissance Survey of the York River

*Prepared by: National Park Service Northeast Region 2013*





Photo: Joyce Kennedy Raymes

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Photo: Joyce Kennedy Raymes

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Photo: Joyce Kennedy Raymes



# I. Summary

## A. Brief History

A reconnaissance survey of the York River was conducted by the Northeast Region of the National Park Service (NPS) at the request of Representative Chellie Pingree (ME-1). Representative Pingree requested that 11-miles of the York River, as it runs through the towns of Eliot, South Berwick, Kittery and York in southern Maine, be evaluated as a candidate for a potential Wild and Scenic River designation and as a step toward a full Wild and Scenic River Study.

The reconnaissance survey provides a preliminary assessment of the eligibility and suitability of the York River as a candidate for a Wild and Scenic designation according to criteria established under the Wild and Scenic Rivers Act (WSRA). Included in the preliminary eligibility assessment is the identification of potentially significant natural, cultural and recreational resources that may be determined to be Outstandingly Remarkable Values (ORVs) as defined by the WSRA. The overall objective is to determine whether Congressional authorization for a Wild and Scenic River Study is warranted, and to make an initial determination on whether Wild and Scenic designation is an appropriate technique for river protection.

There are no public documents prepared for this reconnaissance survey nor does it trigger NEPA (National Environmental Policy Act), since NPS is not taking a major federal action significantly affecting the human environment. The survey determines only whether a full Wild and Scenic Study is warranted. Although the reconnaissance survey does not involve the public, consultation with key stakeholders was vital to this process. The NEPA process and full public involvement would be part of a Wild and Scenic Rivers Study should it be authorized by Congress. The survey began in January, 2013 and was completed in September, 2013 by staff of the Northeast Regional Office.

Since 2009, the locally-based Friends of the York River group including residents, town leaders, and others interested in river conservation has been leading an exploratory effort to determine whether the Wild and Scenic River designation might be an appropriate way to recognize and protect the York River and its associated resources. The group held a variety of public meetings and gathered letters in support of a Study from individuals, organizations and the three towns. Specifically, local interest has been expressed in pursuing a “Partnership Wild and Scenic River Study”, based on river management models such as the Lamprey River in New Hampshire and Farmington River in Connecticut. As such, this reconnaissance survey addresses some of the particular features and requirements of the Partnership Wild and Scenic River (PWSR) Model as a part of the preliminary evaluation process. It is important to note that the Allagash River in Maine is not a PWSR.

The York River Wild and Scenic River Bill (Study Bill) introduced and passed in the House of Representatives during the 112th Congress, failed to make its way through the complete legislative process. In May, 2013, Representative Chellie Pingree re-introduced the legislation in the House and in September, 2013, Senator Angus King in the Senate. The Study Bill would amend the Wild and Scenic Rivers Act to designate segments of the York River and associated tributaries for study for potential inclusion in the National Wild and Scenic Rivers System.

## B. Preliminary Findings

The NPS reconnaissance survey team has determined, based on readily available information, that segments of the York River exhibit free-flowing character and noteworthy natural, cultural and recreational resource values likely to meet eligibility criteria for inclusion in the National Wild and Scenic Rivers System (System). In addition, the presence of very strong community and interest group support for a Wild and Scenic River Study, together with a demonstrated

track record of natural and cultural resource protection, supports key elements of suitability for inclusion in the System, and provides a strong indication that a Wild and Scenic Rivers Study would be appropriate and productive.

The Wild and Scenic Rivers Act provides for three possible classifications of eligible river segments: “wild”, “scenic” and “recreational.” The criteria distinguishing these classifications are based on the degree of human modification of the river and its adjacent shorelines. Based upon the applicable criteria, the York River will not meet the “wild” river area criteria. However, a more in-depth analysis would be required to determine whether a “scenic” or “recreational” classification is appropriate for river segments likely to meet the eligibility criteria.



Photo: Karen Young

## II. Overview: National Wild and Scenic Rivers

### Background

The National Wild and Scenic Rivers System was established by Congress in 1968 through the Wild and Scenic Rivers Act (WSRA) to protect outstanding rivers from harmful effects of new federally assisted projects such as dams and hydroelectric facilities. To be considered eligible for inclusion in the System, a river or river segment must be free-flowing and possess at least one Outstandingly Remarkable Value (ORV). The ORV must be natural, cultural or recreational in character, river-dependent, and have unique, rare or exemplary qualities on a regional or national scale. The most common way for an eligible river to be added to the System is through federal legislation. Each river that is designated into the national system receives permanent protection from development of federal water resource projects that would have an adverse effect on its free-flowing condition, water quality, and ORVs. In addition, the Federal Energy Regulatory Commission (FERC) may not license the construction of any dam or associated project works on a designated segment of river.

### A. Congressionally Authorized Wild and Scenic River Studies

To determine whether a river is both eligible and suitable to be included in the National Wild and Scenic Rivers System, a Wild and Scenic River Study (Study) is conducted. Congress authorizes studies based on Section 5(a) of the WSRA. Eligibility is based on the presence of a free-flowing river condition and the presence of at least one ORV.

A Study assesses the potential ORVs through objective analysis of known data by resource experts using professional judgment. The Study process provides ample time for extensive education and broad participation in the process. This extensive public process is critical to ultimate determination of suitability for inclusion in the System. Congress generally directs that Wild and Scenic River Studies be concluded within three years from the initial funding of the Study.

According to Section 5(c) of the WSRA, the Study should be pursued in close cooperation with the appropriate agencies of the state or its political subdivisions and shall include a determination of the degree to which the state might participate in the preservation and administration of the river should it be proposed for inclusion in the National Wild and Scenic Rivers System.

### B. Eligibility and Suitability Criteria

#### *Eligibility*

To be eligible for designation, a river must be free-flowing and possess at least one river-dependent Outstandingly Remarkable Value (ORV). Free-flowing is defined by the Wild and Scenic Rivers Act (WSRA) as, “existing or flowing in a natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: Provided, That this shall not be construed to authorize, intend, or encourage future construction of such structures in components of the national wild and scenic rivers system.”

The WSRA defines an ORV as a scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar value. An ORV must be a river-related unique, rare or exemplary feature on a regional or national scale of comparison.

#### *Suitability*

Suitability is an assessment of factors to provide the basis for determining whether to recommend a river for addition to the National Wild and Scenic Rivers System. The Interagency

Wild and Scenic Rivers Coordinating Council (IWSRCC) developed the following questions that can assist with the determination:

- 1) Should the river's free-flowing character, water quality and ORVs be protected, or are one or more other uses important enough to warrant doing otherwise?
- 2) Will the river's free-flowing character, water quality, and ORVs be protected through designation? Is it the best method for protecting the river corridor? In answering these questions, the benefits and impacts of Wild and Scenic River designation must be evaluated, and alternative protection methods considered.
- 3) Is there a demonstrated commitment to protect the river by non-federal entities that may be partially responsible for implementing the management plan?

Determining a river's suitability for a Wild and Scenic designation is uniquely based on the specific characteristics and conditions of an individual river. The Study Team is responsible for making this determination based on a wide range of considerations including evaluating any potential threats to the free-flowing condition or resources in a region with high development pressure.

### **C. Partnership Wild and Scenic Rivers Model**

The Partnership Wild and Scenic River model was developed in response to the need for a Wild and Scenic River designation model tailored to rivers that meet the Wild and Scenic River criteria and that are characterized by community-based settings, extensive private land ownership along the river, non-federal lands, and well-established traditions of local governance. This model has a proven track record of effectively creating river protection strategies that bring communities together in protecting, enhancing and managing local river resources, while focusing federal involvement on technical assistance rather than direct land or resource management. With the exception of the Allagash River in Maine and the Westfield River in Massachusetts, all of the other New England rivers are designated through the Partnership Wild and Scenic River model.

For more than 20 years, the NPS has taken advantage of this direction when conducting Studies bordered by predominantly private and non-federal lands by encouraging formation of informal Study Committees based around state and local representation. Such Study Committees have become an integral part of the Study approach, and ensure active local participation in the process. Local and state knowledge is often critical to effective and efficient research regarding potential ORVs of the Study area, and is absolutely essential to the development of local and state-based management strategies for protection of such values. Since it is a central tenet of such studies that land-based resource protection must be primarily accomplished through local, state, and non-governmental action, it is therefore a central task of the Study committee to develop a locally-based management plan (Plan) to protect the important river values being researched and documented throughout a Study. Adoption of the Plan by state and local governments prior to designation provides evidence of local commitment to protecting Wild and Scenic River values without the need for direct federal management, a major factor in determining whether the Partnership model is suitable for the river under study. This Plan can serve the river, local communities, state agencies and other stakeholders regardless of whether Wild and Scenic River status is achieved as a result of the Study.

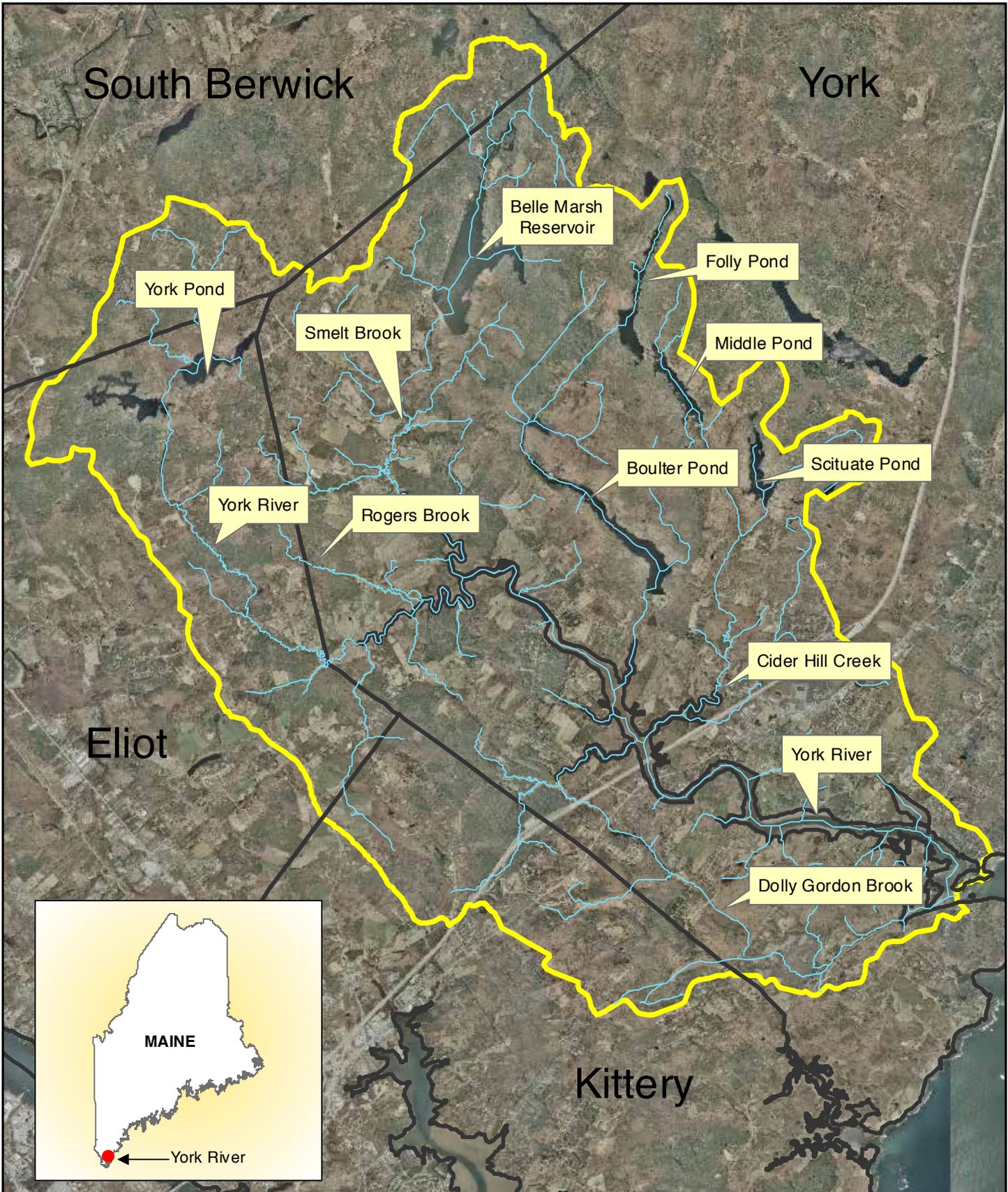
During a Partnership Wild and Scenic Rivers Study the suitability determination is based on factors such as:

- 1) Public support and evidence of commitment by non-federal entities that will be partially responsible for implementing a plan for protection;
- 2) Evidence of existing resource protection to meet the requirements of Section 6(c)<sup>1</sup> of the WSRA; and
- 3) Lasting protection measures set forth in a non-regulatory, locally-developed comprehensive management plan as required under Section 3(d)(1)<sup>2</sup> of the WSRA.

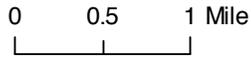
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1 Section 6(c) states that federal condemnation of lands cannot be used in towns that have zoning ordinances in force that are consistent with the purposes of the WSRA.

2 Section 3(d)(1) requires that a comprehensive management plan address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of the WSRA.



- York River Watershed
- Town Boundary
- River/Stream



**York River Watershed**  
 Susan Bickford Wells NEER Jan 2011  
 H:/Projects/Watersheds/YorkAerial

### III. Description of Survey Area

The York River watershed is located in southern Maine within the towns of Kittery, Eliot, South Berwick and York. The majority (72%) of the watershed area is located within the Town of York. The watershed covers 32 square miles and includes the York River mainstem and numerous wetlands, ponds, and tributaries, as well as drinking water reservoirs and the extensive salt marsh estuary. There are a total of 109 miles of streams and rivers. The major York River tributaries are the Cider Hill Creek, Cutts Ridge Brook, Rogers Brook and Smelt Brook. This area is primarily comprised of large unfragmented forested areas and agricultural lands along with rural and some suburban residential development. The many important habitat areas support rare and endangered plant and animal species.<sup>34</sup> According to the [http://swim.wellsreserve.org/town.php?town\\_id=35](http://swim.wellsreserve.org/town.php?town_id=35) website, “York is a rapidly growing ocean-front New England community with substantial historical features and a wealth of natural resources.”

*The York River begins at the northwest corner of York Pond and quickly flows into the Upper Bartlett Mill Pond in Eliot. It then travels south to southeast through woodlands before entering the Town of York. Here it is met by Cutts Ridge Brook from the south just before passing under Birch Hill Road and coming under tidal influence. The River continues its travels, twisting and turning, in an easterly direction where it converges with Rogers Brook and Smelt Brook. As the River begins to widen, it turns in a more southerly direction where it is crossed by Scotland Bridge Road. At this point, Bass Cove Creek (which leads in from Boulter Pond) and Cider Hill Creek, both from the north, connect to the River. Across from the outlet of Cider Hill Creek, Dolly Gordon Brook and Libby Brook converge and empty into the River from the South. The York River then passes under the Turnpike and Route 1. It curves around Ramshead Point, continuing in a southeasterly direction, where it is crossed by Sewall’s Bridge and Route 103. The River passes Bragdon and Harris Islands, turns sharply around Stage Neck and empties into the Gulf of Maine.<sup>5</sup>*



Photo: York Land Trust

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3 [http://swim.wellsreserve.org/watershed.php?ws\\_id=2&byname=&byzip=&imagefield.x=67&imagefield.y=20](http://swim.wellsreserve.org/watershed.php?ws_id=2&byname=&byzip=&imagefield.x=67&imagefield.y=20)

4 [http://yorkrivers.org/york\\_river.html](http://yorkrivers.org/york_river.html)

5 [http://yorkrivers.org/york\\_river.html](http://yorkrivers.org/york_river.html)

## IV. Preliminary Evaluation of Eligibility

A reconnaissance survey does not catalog all of the potential Outstandingly Remarkable Values (ORVs) within the Study area. The goal is to identify representative resources that reflect the natural, cultural and recreational values that may meet the eligibility threshold of being unique, rare or exemplary on a regional or national scale of reference and be river-related or dependent. The interdisciplinary Study Team would be tasked with making the final determinations on river-dependent resources that meet the eligibility criteria of "... being a unique, rare or exemplary feature that is significant at a comparative regional or national scale."<sup>6</sup>

### A. Potential Outstandingly Remarkable Values (ORVs)

#### 1. Overview of Natural Resources

This region hosts the largest intact coastal forest in the area between Acadia and the New Jersey Pine Barrens, as well as the largest intact coastal wetland area in southern Maine. The northern and southern forests overlap in the region and this biome transition is another reason that this area has such rich biological diversity. The presence of both salt and freshwater ecosystems and the convergence of those systems in an estuary also contribute to the wide range of special habitats present – including fringing marshes, salt marshes, tidal flats and the nutrient-rich tidal marsh estuary.

Rare species and exemplary natural communities are detailed in the State of Maine's Focus Area of Statewide Ecological Significance document. The report states that the "Tidal Marsh Estuary Ecosystem that includes the intertidal bays and one of the largest unprotected *Spartina* saltmarshes is a rare community in the state. The extensive York River Estuary is one of the Gulf of Maine's least disturbed marsh-estuarine ecosystems and may be the most ecologically diverse coastal drainage for its size in the Gulf of Maine."<sup>7</sup>



Photo: York Land Trust

This area of Maine has the greatest diversity of threatened and endangered species of any Maine region. The estuary provides valuable roosting and feeding area within the mapped tidal wading bird and waterfowl habitat. It is excellent spawning habitat, with 28 species of estuarine and freshwater fish present.<sup>8</sup> The marshes also provide habitat for the rare saltmarsh sharp-tailed sparrow.<sup>9</sup> Overall, the river area provides extensive habitat and a migration corridor within the Atlantic flyway for birds.

The State endangered Blanding's Turtle is documented to be present.

Additional species of note inhabiting the wetland-upland complexes include the threatened spotted turtle and ringed boghaunter dragonfly, one of the rarest dragonflies in North America. Rare plant species of the watershed include saltwater false-foxglove, spongy arrow-head, and water pimpinell.<sup>10</sup> The American eel, although not listed officially as an endangered species, is a declining species that utilizes the free-flowing habitat of the York River.



Photo: York Land Trust

6 Jackie Diedrich, Cassie Thomas, U.S. Forest Service and National Park Service, *The Wild & Scenic River Study Process*, (Portland, Oregon, and Anchorage, Alaska, 1999), 12.

7 [http://www.maine.gov/doc/nrim/mnap/focusarea/york\\_river\\_headwaters\\_focus\\_area.pdf](http://www.maine.gov/doc/nrim/mnap/focusarea/york_river_headwaters_focus_area.pdf)

8 [http://www.maine.gov/doc/nrim/mnap/focusarea/york\\_river\\_headwaters\\_focus\\_area.pdf](http://www.maine.gov/doc/nrim/mnap/focusarea/york_river_headwaters_focus_area.pdf)

9 [http://www.maine.gov/doc/nrim/mnap/focusarea/york\\_river\\_headwaters\\_focus\\_area.pdf](http://www.maine.gov/doc/nrim/mnap/focusarea/york_river_headwaters_focus_area.pdf)

10 [http://www.maine.gov/doc/nrim/mnap/focusarea/york\\_river\\_headwaters\\_focus\\_area.pdf](http://www.maine.gov/doc/nrim/mnap/focusarea/york_river_headwaters_focus_area.pdf)

## 2. Overview of Cultural and Historical Resources

The Interagency Wild and Scenic Rivers Coordinating Council (IWSRCC), provides guidance on eligibility criteria for prehistory and history values. Native American sites must have unique or rare characteristics or exceptional human interest value. Sites may have other attributes such as national or regional significance for interpreting prehistory. Historical values related to a river could be associated with a significant event, an important person or a rare cultural event. Such prehistory or historic sites or features could be also listed on the National Register of Historic Places. Cultural or historical resources that have local significance may not meet the criteria on a regional or national level. The reconnaissance survey has identified resources that may or may not fully meet the ORV criteria, and it would be expected that a Study Team would determine which features merit this status.

The lasting human settlement of this area relates to its abundant natural resources and the presence of the York River with its associated harbor and estuary. There is also a long-term appreciation of the natural resources of this region by its inhabitants and a long-held tradition of sustainable harvest of resources, such as fish and timber for everyday existence and income. In addition, there is a history of ship-making, brick-making and coastal shipping that developed as a result of the settlement on the banks of the York River. The configuration of the York Harbor provides a navigable and safe entry inland.

The cultural and historical resources of the York River span the historical record – from archaeological evidence of Native Americans – to village development surrounding the fishing trade in the 1600 to 1700s – to modern era engineering accomplishments. There is a vibrant local community of historians (Old York Historical Society d/b/a Museums of Old York (MOY), Eliot Historical Society, Old Berwick Historical Society, Kittery Historical and Naval Society) that could be a source for documentation of these resources during a possible Wild and Scenic Study.

*The river up until the end of the nineteenth century was York's principal means of receiving goods from abroad or shipping local produce and product to markets overseas and up and down the coast. It provided power for gristmills and sawmills and was a primary source of employment. People initially settled close to the river, eventually spreading out into the forest and across the mountains lured by the availability for land and timber. The river with its safe harbor prospered early in York's history. The "lower town" offered wharves and warehouses, shipyards and markets. York's river commerce was largely that of schooners, fifty to eighty feet in length. Many were built and owned locally.<sup>11</sup>*



Photo: Karen Young

Based on this brief survey of historic and cultural resources, it appears that the York River has a rich history as one of the first settlements of New England. There seem to be many existing resources that document the background of this area. A more detailed review of the resources that are river-related is recommended to be undertaken during a possible Study to determine whether they are river-dependent and unique, rare or exemplary regionally or nationally. The Study Team will determine which of the following resources meet all of the eligibility requirements.

### Potential river-related historic properties on the banks of the York River

*John Hancock Warehouse and Wharf* (1740) — National Register of Historic Places. Last remaining commercial building on the York River from Colonial period in Town of York.<sup>12</sup> The Wharf has been preserved by MOY with funding from the state's Working Waterfront Access Pilot Program. It serves as a "working dock" to three local lobster boats.

<sup>11</sup> [http://www.waymarking.com/waymarks/wme56f\\_the\\_york\\_river\\_york\\_me](http://www.waymarking.com/waymarks/wme56f_the_york_river_york_me)

<sup>12</sup> <http://www.oldyork.org/buildings/hancock.html>



Photo: Karen Young

***George Marshall Store*** (1870) (MOY) — General merchandise was sold at this location and it is currently used as an art gallery featuring local artists open to the public.

***Sayward Wheeler House*** (1718) (Historic New England) — Home of shipping merchant, judge and important resident, Jonathan Sayward.

***Elizabeth Perkins House*** (18th century – 1920s)(MOY) — Historic home that “...stands as of the most complete and finest surviving examples of colonial revival architecture and interior design in the Piscataqua Region of Maine that is open to the public on a regular basis. Its gabled outline, elegant grounds, and prominent site along the York River at the end of the 18th century Sewall’s Bridge combine to make it one of York’s most prominent and endearing historic landmarks.”<sup>13</sup> This may not be a river-related historic ORV, however may be determined to fit the criteria for the scenic ORV due to its location on the banks of the York River and its contribution to the scenic quality of this river segment.

***McIntire Garrison House*** (1707) (family-owned) — This house is on the National Register of Historic Places and is a National Historic Landmark. “With its thick, protective walls, the house is representative of the vernacular log architecture widely used in New England in the 17th century as a defense against Indians.”<sup>14</sup>

***Town of York Local Historic Districts*** — The Town of York has three local historic districts that fall within the York River watershed – the York Harbor Local Historic District that encompasses the historic buildings preserved by MOY, the Lindsay Road Local Historic District including Steedman Woods and the Village Center Local Historic District in the center of town.

***Archaeological Sites*** — The York River and its tributaries are particularly rich in archaeology sites from the seventeenth century, including some of the earliest best preserved in New

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13 <http://www.oldyork.org/buildings/perkins.html>

14 <http://tps.cr.nps.gov/nhl/detail.cfm?resourceid=774&resourcetype=>



Photo: Karen Young

England, such as the remains of Point Christian Manor — the 1634 governor’s mansion. Some important sites lie partially within the tidal zone, for the first tidal powered saw mill in Maine (and probably the first in what is now the United States) was built in York in 1634. Many other tidal mills were constructed in the following years, and some were in use throughout the nineteenth century. The remains of the 1634 mill dam and a handful of other early mill dams survive — nationally significant evidence of the beginnings of the American lumber industry.

***Punkintown*** — Site of an historic town found on York Pond in the York River headwaters. Little is known about the remains of this small town that at its peak had a population of only about 30 to 40. Residents were known to be self-sufficient with their own grist mill, saw mill and granite quarry.<sup>15</sup>

### **Noteworthy Inhabitants**

The following residents and visitors of this area include:

- Captain John Smith, the explorer and Jamestown Colony leader.
- Samuel Clemens, the author who spent the summer of 1902 living in a home along the York River.
- May Sarton, the poet who spent final years living in a house by the York River.
- Rufus McIntire, the resident who held multiple local and national government posts.
- Thomas Morton, the arch-rival of the Pilgrims of Plymouth who was exiled from Massachusetts and lived his last years in a house near the river.

It is anticipated that Wild and Scenic interdisciplinary Study Team experts would make a determination as to whether these well-known persons have a nationally or regionally significant historic or cultural relationship with the river.

### **Bridges, Transportation and Energy**

***Sewall’s Bridge*** is a historic civil engineering landmark. The wooden trestle bridge was designed and constructed by Major Samuel Sewall in 1761 and remained in use as a York River crossing until 1934, when it was replaced by a similarly designed wooden pile bridge. Original wood was used in the reconstruction. It was the earliest bridge of its kind with authentic existing construction record and drawings.<sup>16</sup> In 2013, the bridge is undergoing reconstruction for safety reasons and that construction is near completion.

***Wiggly Bridge***, built in the 1930s, is one of the smallest suspension bridges in the U.S. and is an attraction for locals and tourists alike.

***Thermoplastic Bridge*** is the first of its kind in the U.S., built from recycled plastic bottles.

Remnants of a series of historical dams and tidal mill ponds in the York River and tributaries were documented by Silas Weeks of the Eliot Historical Society. He described a sequence of grist and saw mills and three impoundments that powered a dairy barn, along with some dams that held back water to control flows for powering downstream dams as needed. The existence of the historical mills alone does not necessarily constitute an ORV and therefore it is recommended that a detailed review of the significance of individual mills or the series of mills could be investigated. For instance, the fact that the Dolly Gordon Brook powered the first tidal mill in the colonies<sup>17</sup> could be a significant value. Other historic tidal mills exist in the watershed

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15 <http://www.seacoastonline.com/apps/pbcs.dll/article?aid=/20071118/news/711180349/-1/news>

16 <http://www.asce.org/people-and-projects/projects/landmarks/sewall-s-bridge/>

17 <http://www.yorkrivers.org/historic.html>

as well such as in Barrell's Mill Pond in York. Bud Warren may be a source of additional information as he is a local authority on tidal mills.

### 3. Overview of Recreational and Scenic Resources

A potential recreational resource is based on the popularity of the activity and the extent to which visitors are willing to travel to use the resources. In addition, interpretive opportunities may be significant and may potentially attract visitors from throughout the region and a river-related activity could be a setting for a national or regional event.<sup>18</sup> The guidance on scenery is that the elements of the landscape result in "notable or exemplary visual features and/or attractions."

The recreational opportunities and scenic resources of this region are closely linked. The scenery is the backdrop that creates an enjoyable environment for recreating on and beside the York River. The coastal Town of York has been a popular tourism destination with its scenic views of the York Harbor and Atlantic coastline since the 1800s. It has long been a destination for those from more populated areas seeking a place of quiet refuge. The scenic qualities relate to both the natural environment and the feel of a quintessential New England town on the banks of the historic waterfront with active fishing and lobstering boats in the harbor. Small-scale commercial fishing lends a rugged charm to the harbor. Scenic views of beaches and the ocean are also a draw for tourists.

Some of the most popular recreational activities of the York River include fishing, boating and walking.

*Fishing* is both a commercial and recreational pursuit on the York River. There are a broad range of opportunities for anglers due to the large diversity of marine and freshwater fish species, the configuration of the safe, functioning harbor and access to the ocean.

*Boating* is a popular activity on the York River because of its extensive scenic and natural resources. Paddling opportunities are promoted regionally as a tourist activity and destination. There are strictly enforced speed limits on motorized boats which encourages kayaking, stand up paddleboarding, canoeing, fishing and sightseeing. Clearance at Sewall's Bridge prevents larger boats from reaching the upper reaches and provides an opportunity for quiet paddling and exploring of the wetland areas associated with the York



Photo: Karen Young

River.<sup>19</sup> The Maine Island Trail Association (MITA) which manages a state-wide coastal water trail recently expanded the trail that used to stop in Casco Bay an hour north all the way to the southern Maine/New Hampshire border and includes the York River.

The York Harbor is navigable in all tides and does not freeze, allowing year-round boat moorings.<sup>20</sup> It is possible to view some of the historical sites related to the river while boating on the York. The number of access points to the river is limited as one paddles upstream and results in a more natural river-user experience. The quiet beauty of the upper watershed includes areas where there are no houses and the salt marshes and mudflats are filled with birds seasonally.

*Walking/Hiking/Wildlife Watching* on the Cliff Walk, Fisherman's Walk and Wiggly Bridge trails provide scenic views of the York River and Harbor.

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18 Jackie Diedrich, Cassie Thomas, U.S. Forest Service and National Park Service, *The Wild & Scenic River Study Process*, (Portland, Oregon, and Anchorage, Alaska, 1999), 13.

19 [http://swim.wellsreserve.org/watershed.php?ws\\_id=2](http://swim.wellsreserve.org/watershed.php?ws_id=2)

20 <http://www.yorkmaine.org/Portals/0/docs/Planning/NATURAL%20RESOURCES%20CHAPTER%202007-11-06.pdf>

*Steedman Woods is owned by MOY, and is located along the York River just upstream of Route 103. This property contains walking paths on the west end of Wiggly Bridge and, as such, forms the southerly end of the Fisherman's Walk. . . The Fisherman's Walk [and adjoining], . . . Cliff Path, is a public walkway[sic] that begins in Steedman Woods that follows the York River downstream to Harbor Beach and the Hartley Mason Reserve, and then follows the rocky coastline around Eastern Point to Cow Beach. Walkers on this path have spectacular views of the River and Ocean.<sup>21</sup>*

There is also a network of trails dotted with scenic views and opportunities to enjoy different habitats and wildlife species in the Mt. Agamenticus region including trails on the Highland Farm Preserve, on the conserved lands around York Pond, in the Mount Agamenticus Wildlife Management Area and on both York and Kittery Water District lands in the watershed. There are scenic views from Mt. Agamenticus, Route 91, at York Pond, from the bridges and other points into the watershed area.

## **B. Preliminary Free-Flow Analysis**

A Wild and Scenic designation preserves rivers in their free-flowing condition and protects them from the harmful effects of new federally assisted projects such as dams and hydroelectric facilities. Rivers or river segments must be determined to be free-flowing to be eligible for designation. Section 16(b) of the WSRA defines “free-flowing” as “. . .existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. “Free-flowing” refers to the flow within the designated river segment and is not the same as naturally flowing. For instance, Section 16(b) of the WSRA also states that the existence of “low dams, diversion works, and other minor structures” does not automatically bar its consideration for designation. The 1982 Interagency Guidelines define

water flow sufficiency for a determination of eligibility stating that “Flows are sufficient if they sustain or complement the outstandingly remarkable values for which the river would be designated.”<sup>22</sup>

The State of Maine Emergency Management Agency provided an inventory of seven dams that are situated within the York River watershed. Based on this information, five of the dams are associated with the Kittery Water District and two of the dams are privately owned. The Kittery and York Water Districts have a series of six drinking water reservoirs that supply water to parts of Kittery, Eliot and York including the Portsmouth Naval Shipyard in Kittery which is a



Photo: Karen Young

large water consumer. The Kittery Water District dams contain the drinking water reservoirs within the York River watershed. Kittery Water District reservoirs include Folly Pond, Middle Pond, Bell Marsh Reservoir and Boulter Pond. Local partners are currently advocating for a “watershed-wide” approach to the possible Study and, therefore, all of the dams should be field-examined during a Wild and Scenic Study to determine whether they meet the “free-flowing” criteria. For example, the dams associated with the impounded drinking water reservoirs would be outside a possible Wild and Scenic designated area. It appears that the York Pond Dam located at the outlet of York Pond located in the Town of Eliot is the only dam on the York River mainstem. The remainder of the York River was historically dammed by a series of impoundments and mill ponds to power grist, saw and dairy operations. They are no longer in existence; however, there may be some evidence of these dams that could be explored during a

21 <http://www.yorkmaine.org/Portals/0/docs/Planning/NATURAL%20RESOURCES%20CHAPTER%202007-11-06.pdf>

22 “Department of the Interior and Agriculture Interagency Guidelines for Eligibility, Classification and Management of River Areas,” published in the Federal Register (Vol. 47, No. 173; September 7, 1982, pp. 39454-39461).

possible Study. Since the river has been in a free-flowing state for a long time period, the river has retained populations of migratory fish and other crustaceans, including smelt, herring, eel, lobster, and flounder populations along with seasonal striped bass and bluefish populations.<sup>23</sup>

York Watershed Dams			
Dam Name	River/Pond/Reservoir	Owner	Dam Height (feet)
Bell Marsh	Bell Marsh Reservoir	Kittery Water District	70
Bell Marsh Dike	Bell Marsh Reservoir	Kittery Water District	18
Boulter Pond	Boulter Brook	Kittery Water District	31
Middle Pond	Cider Hill Creek	Kittery Water District	35
Folly Pond North	Watershed Area	Kittery Water District	28
Scituate Pond	Cider Hill Creek	Gail DePerrio	18
York Pond	York Pond	Edward Bartlett	6

Significant shoreline development and alterations to the bed and banks of the waterway such that the segments lack ORVs and/or free-flowing conditions would deem a river segment ineligible. Such factors would result in exclusion of a river segment from consideration for further study. Conducting a free-flow assessment at the outset of any future study, including an inventory of infrastructure such as dams, concrete bridge piers, docks, riprap, etc., would allow Study participants to focus their ORV identification and suitability assessment work on segments known to be free-flowing.

Specifically, the York River Harbor and the river segments that include highway crossings would require special examination during a possible Study to determine the impacts on free-flowing condition and potential eligibility for Wild and Scenic River designation. Based on available information, the portion of the York Harbor below the Route 103 bridge crossing may not meet eligibility standards due to the altered shoreline and the presence of multiple docks and moorings. If this is the case, the Route 103 bridge river crossing of the York Harbor would be a possible downstream boundary for potential Wild and Scenic River designation consideration. The areas surrounding the Route 95 and Route 1 highway crossings appear to remain largely natural and undeveloped, and would likely not be excluded from eligibility consideration. However, these areas would still require free-flow assessments.

### C. Existing Water Quality

The Wild and Scenic Rivers Act provides some general direction on protecting water quality for Wild and Scenic Rivers. Also, the 1982 Interagency Guidelines refer to consistency with the Federal Clean Water Act and require water quality to be maintained and “where necessary, improved to levels which meet Federal criteria or federally approved state standards for aesthetics and fish and wildlife propagation.” In addition, the Guidelines emphasize the importance of developing strategies for managing water quality and collecting “baseline data during river studies and development of comprehensive river management plans.”<sup>24</sup>

The headwaters region of the York River is comprised of mostly forested areas, and the upstream tributaries include a series of water supply reservoirs with protected source water lands that surround them. Protection of surface waters for drinking water is vital in the area due to the absence of major stratified drift deposits that would allow development of municipal-size water supplies from groundwater.<sup>25</sup> These undeveloped lands, along with a significant number

<sup>23</sup> [http://swim.wellsreserve.org/watershed.php?ws\\_id=2&byname=&byzip=&imageField.x=67&imageField.y=20](http://swim.wellsreserve.org/watershed.php?ws_id=2&byname=&byzip=&imageField.x=67&imageField.y=20)

<sup>24</sup> “Department of the Interior and Agriculture Interagency Guidelines for Eligibility, Classification and Management of River Areas,” published in the *Federal Register* (Vol. 47, No. 173; September 7, 1982, pp. 39454-39461).

<sup>25</sup> <http://www.yorkmaine.org/Portals/0/docs/Planning/NATURAL%20RESOURCES%20CHAPTER%202007-11-06.pdf>

of conservation and state protected lands in the region such as the Mt. Agamenticus to the Sea Conservation Initiative (MtA2C) lands including Highland Farm and the York Pond area conservation land help protect the water quality in the river. These efforts provide exceptional water quality protection. In fact, 26% of the lands in the York River watershed have been protected from development. When a watershed is developed with as little as 10% impervious surface (roadways, driveways, rooftops, etc.), water quality has been shown to become degraded in the associated water body (<http://www.nemo.udel.edu/manual/Chap2Web.pdf>) The land uses in the York River watershed are generally associated with a very low percent impervious surface per acre.

Some example indicators of high water quality include the large diversity of habitat supporting aquatic life and according, to the Maine Department of Marine Resources (DMR), the conditional opening of shellfish beds in the lower portion of the York River that results in recreational clamming.

The York River is categorized by the state of Maine as Class B waters that are deemed suitable for fishing, clamming and swimming. There are no municipal wastewater facilities discharging to the river. The Maine Department of Environmental Protection (DEP) reported that the York River is planned to be removed from the Impaired Coastal Watershed/Priority Coastal Watershed in the upcoming 305b/303d list since the water quality issues do not seem to be related to non-point source pollution problems associated with erosion, but are more likely due to a small number of marina/boat sources. Regardless, the largest threat to the water quality of the York River watershed is from nonpoint source pollution. The *York River Watershed Nonpoint Pollution Survey and Watershed Management Plan*<sup>26</sup> prepared by the Wells National Estuarine Research Reserve for Maine DEP in 2005 includes information gathered during a nonpoint source pollution survey of the York River conducted in 2001-2003, along with other identified water quality issues.

Based on this initial survey of available water quality data, there appears to be adequate baseline information to understand the condition of the water quality in the river. A more detailed review of the data is recommended to take place during a possible Study. In a technical report developed by the IWSRCC regarding “Water Quality and Quantity as Related to the Management of Wild and Scenic Rivers,” it is advised that the water quality section of a Wild and Scenic Management Plan document baseline conditions, define water-related values to be protected and identify potential threats and protection opportunities. Documenting baseline water quality is important because this establishes the threshold for meeting the WSRA mandate to protect and enhance this Wild and Scenic Rivers Value should the river be designated.

#### **D. Information Gaps / Potential Research Studies**

There is typically a budget associated with an authorized Study. This allows for research and technical analysis of the resources, river flows, recreational use surveys etc. *These “studies within the study” help establish benchmarks for the protection of ORVs, and this information will generally result in enhanced river protection even if Wild and Scenic River designation is not achieved.*<sup>27</sup>

Under the Wild and Scenic Rivers Act, a comprehensive river management plan (CRMP) must be prepared that addresses, “resource protection, development of lands and facilities, user capacities...” The NPS recommends that the CRMP be prepared during Studies where there are extensive non-federal lands within the area, and strong local interest in self-regulation combined with opposition to federal land acquisition. Developing a CRMP can support the suitability determination and establish the importance of multiple partners working for river protection. Beyond this responsibility, the Study Team would make a determination as to what additional

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<sup>26</sup> <http://swim.wellsreserve.org/csc/uploads/York%20River%20WMP.pdf>

<sup>27</sup> Jackie Diedrich, Cassie Thomas, U.S. Forest Service and National Park Service, *The Wild & Scenic River Study Process*, (Portland, Oregon, and Anchorage, Alaska, 1999), 11.

studies may be necessary to determine eligibility and suitability for designation. In collaboration with the Study Team, the NPS would screen prospective research studies to determine if they meet the following criteria:

- How essential is the study to the overall eligibility and suitability determinations?
- How much time would the study take (studies should take less than three years, from scoping through contracting to completion)?
- Would the potential study budget be adequate to cover costs, or if not, is there an alternate source of funding?

The Friends of the York River group, that has been leading the exploratory effort to initiate a Wild and Scenic Study, has provided the NPS with a comprehensive list of prospective studies that could be conducted with potential NPS funding through an authorized Study. The NPS has utilized that suggested list to recommend studies that could potentially be relevant in supporting the eligibility and suitability determination during a Wild and Scenic Study. The local stakeholder group may also consider additional studies while developing a possible CRMP, that would be outside the scope of a Study, but relevant for river protection.

If there is funding available through the NPS, the following potential research Study list is representative of the projected needs of the Friends of the York River group to conduct a Study, and characterizes the types of research that could be necessary to document eligibility and suitability. It is important to note that this list of possible studies has not been finalized nor determined to be essential for determining eligibility and suitability. If a Study is authorized, the NPS would work with the local Study Team to prioritize the scope of research based on the criteria referenced above.

***Prepare GIS Mapping of Existing Conditions of the Watershed:***

- Determine York River and contributing tributary watershed boundary.
- Prepare a topographic survey of the existing watershed to be used in planning and watershed modeling.



Photo: Karen Young

- Document and inventory protected lands within the watershed.
- Conduct an evaluation of type and extent of existing development.
- Determine trends in development expansion and resulting impact to the watershed.
- Document and map the existing land uses within the watershed including locations of lands currently in agriculture and tree growth tax protection.
- Determine the potential for expansion of forest and agriculture land uses.

***Water quality:***

- Inventory and prepare a database of existing water quality data to describe existing water quality and to determine trends. Identify location and types of impacts to surface water quality.

***Ecology and Biodiversity:***

- Perform studies to evaluate and determine regional diversity of existing ecological plant and animal habitat systems within the Wild and Scenic Study area.
- Conduct a habitat evaluation study to determine types/species, quantity, rarity, and location of existing plant and animal habitats within the Study area. The study should be used to determine methods of protection and preservation of critical and endangered species habitat.

***Fisheries Habitats:***

- Conduct a study to evaluate existing fisheries and habitats.

***History and Archaeology:***

- Conduct historical documentation and archaeological investigations of significant river-related existing and former mill sites, cemeteries, abandoned settlements to supplement local town and state historical documentation.
- Document and locate significant river-related historical structures and landforms.
- Document and locate river-related structures and features currently registered or that have the potential to be listed on the National Historical Register.

***Recreation:***

- Evaluate current recreational uses and recreational resources related to the river.

***Dams, Docks and Piers:***

- Evaluate existing dams and remnant dams to determine whether they meet the free-flowing requirement of the WSRA.
- Document and evaluate existing waterfront piers, docks, bulkheads, seawalls and structures and determine their impact on free-flow, natural features, fisheries, and habitat.

***Regulations, Plans, Programs and Policies:***

- Conduct an evaluation of existing and proposed local, state, and federal regulations and policies pertaining to land use, fisheries, and the natural, recreational, cultural and historical resources within the watershed.
- Determine adequacy and consistency of existing regulations, policies and permitting in achieving the purposes of the WSRA.
- Review local, regional, and state objectives for the preservation of protected lands and determine adequacy and consistency.

## V. Preliminary Evaluation of Suitability

For the purpose of this survey, a preliminary suitability analysis considers readily available information related to:

- Existing river protection measures;
- Existing support for a Wild and Scenic Study;
- Initial level of demonstrated commitment to protect river;
- Preliminary assessment of whether Wild and Scenic designation might be an appropriate scheme for river protection;
- Local interest in participating in the Partnership Wild and Scenic Rivers model; and
- Potential for water resources development.

### A. Existing River Protection

The IWSRCC offers guidance on evaluating the adequacy of river protection and the consistency with which designation matches other agency plans, programs or policies and in meeting regional objectives. Such analysis is conducted as a part of the larger report requirements outlined in Section 4.(a)(ii) of the WSRA. An in-depth analysis is undertaken during a Wild and Scenic Study and includes an evaluation of:

- The adequacy of local zoning and other land use controls in protecting the Wild and Scenic River values<sup>28</sup> by preventing incompatible development. This evaluation may result in a finding

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<sup>28</sup> Wild and Scenic River values include free-flowing condition, water quality and Outstandingly Remarkable Values.

Photo: York Land Trust



that the local zoning, when combined with other forms of existing resource protection, fulfills Section 6(c) of the Wild and Scenic Rivers Act, which in turn preempts the federal government's ability to acquire land through eminent domain if the river is designated.

- The state/local government's ability to manage and protect the Wild and Scenic River values on non-federal lands.

In conducting this evaluation a Study Team will determine if the communities and state have existing zoning and land use controls adequate to protect the waterways and associated ORVs, or whether additional controls are necessary to protect resources. Essential programs or regulations, together with resource objectives and recommendations for future action, are documented in the Comprehensive River Management Plan (CRMP) developed as a part of the Study. Partnership Wild and Scenic Rivers (PWSR) designation under the WSRA is only suitable when there is strong, broad-based support for these critical elements as included in the Plan.

### **Water Quality and Riverine Habitat Protection**

Based on a preliminary review of some of the existing river-related protections currently in place, it appears that the towns and local organizations have responded to the challenges of ongoing growth of the area by establishing a series of regulations, policies and programs to protect the watercourses and associated resources. For example, the Town of York has developed the Shoreland Overlay District, as described in the York Zoning Ordinance. It creates a 250 foot resource protection zone to limit development in sensitive resource areas. The Overlay District likely provides the single most important local regulatory protection, since the main stem of the York River and many of the tributaries are within the Town of York. There are also municipal protections in Kittery, Eliot and South Berwick and existing water quality programs related to the protection of York and Kittery Water District reservoirs and lands.

At the state level, the Maine DEP administers programs under the Clean Water Act such as the Maine National Pollutant Discharge Elimination System (NPDES). Under NPDES, the DEP has established an MS4 General Permit that requires a permittee to develop, implement, and enforce a Stormwater Program Management Plan implementing six minimum control measures including public education and outreach, public involvement and participation, and illicit discharge detection and elimination to protect water quality. Part of the York River watershed was recently included under this permit requirement and the initiatives that the town is undertaking to meet its requirements will provide additional water quality protections for the river. The new stormwater regulations will also direct resources to bolster existing public education and outreach programs such as York's "Lawns to Lobsters" program that encourages local citizens to use low-impact lawn care methods to protect water quality.

### **Historical and Waterfront Preservation**

There exists a long-term history of conservation and historical preservation in this region. An active local historical community works to interpret, document and protect the rich cultural and historical resources. An example of a unique protection scheme is the restoration of the historic, working John Hancock Wharf. This dock provides access for three local lobster boats. Across the river, the York Land Trust protected Sewall's dock in order to provide long-term access to the historical waterfront for local fisherman, and for its scenic value. It is the first project of its kind in the U.S. Multiple partners came together to realize this project. The small-scale commercial waterfront, located upstream of the Route 103 bridge, protects a historically significant feature and waterfront open space. Fishing success is supported by a high quality water resource.

Future community plans for the historical waterfront would require special attention during a management planning process and in suitability determinations to determine if the existing and future uses are compatible with WSRA protection. As noted in the eligibility section of this report it may be appropriate to delineate the downstream Study boundary at the Route 103 bridge crossing of the York Harbor. Based on available information, the land uses associated with the lower harbor may be incompatible with WSRA protection, and this area does not appear to support equivalent historical values of the waterfront upstream of Route 103.

**Local historical organizations include:**

**Museums of York** (the organization as it exists today combines two or three pre-existing organizations that merged over the years) *was founded over one hundred years ago to preserve the history and artifacts of York, Maine... York is one of New England's earliest colonial settlements. It is also the nation's first chartered city (1641) and first incorporated city (1642). Offering thirty-seven period room settings and several galleries housed throughout nine historic museum buildings.*<sup>29</sup>

**Eliot Historical Society** was founded in 1897 and works to preserve the town's history through collection of artifacts and documents.<sup>30</sup>

**Old Berwick Historical Society** promotes public awareness of local and regional history. *The Counting House Museum is a regional treasure containing one of northern New England's last textile mill ballrooms.*<sup>31</sup>

**Kittery Historical and Naval Society** stores artifacts and documents related to pre-revolution days through to the modern navy. Kittery is Maine's oldest incorporated town (1647).<sup>32</sup>

**Land Conservation and Natural Resource Protection**

Development pressure is significant in Southern Maine. For instance, York's population increased from 9,818 in 1990 to 12,854 in 2000. This 30.9% increase was the largest in York County.<sup>33</sup> With the existing combination of an excellent highway access system to the region and the desirability of the coastal location there has been an influx of year-round residents and the associated traffic congestion and loss of open space.<sup>34</sup>

Despite this development pressure, there is an extensive network of local and regional organizations working to protect and preserve watershed resources that include groups such as land trusts, and other conservation and historical related organizations. Some examples follow:

**Mt. Agamenticus to the Sea Conservation Initiative (MtA2C)** *is an effort led by a coalition of ten national, regional and local partners representing federal and governmental agencies, statewide land protection organizations, and three local land trusts. MtA2C's goal is to protect a network of connected conservation lands and natural resources within a 48,000-acre focus area in Southern Maine for the benefit of people and wildlife. To date, over 13,000 acres have been protected in the MtA2C region. By 2032, MtA2C aims to protect at least 6,000 more acres to bring the total protected land in the Mount Agamenticus to the Sea focus area to approximately 19,000 acres.*<sup>35</sup> The Highland Farm (151-acre property that links to over 7,000 acres of protected forest) and the Davis Family property (240-acres of pristine habitat) are two examples of significant preserved properties on the banks of the York River related to this initiative.

**Wells National Estuarine Research Reserve at Laudholm** *protects and manages 2,250 acres of coastal habitat in concert with its partners. The Wells Reserve is involved throughout southern Maine in efforts to study coastal ecosystems, provide environmental education programs, develop conservation strategies and implement the best options to protect natural resources.*<sup>36</sup>

**U.S. Fish and Wildlife Service Rachel Carson National Wildlife Refuge** *protects valuable salt marshes and estuaries for migratory birds. Located along 50 miles of coastline in York and Cumberland counties, the refuge consists of eleven divisions between Kittery and Cape Elizabeth.*

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29 <http://oldyork.org/About%20Us/index.html>

30 <http://www.eliothistoricalsociety.org/about.htm>

31 [http://www.oldberwick.org/index.php?option=com\\_content&view=article&id=53:about-obhs&catid=57:our-mission&itemid=82](http://www.oldberwick.org/index.php?option=com_content&view=article&id=53:about-obhs&catid=57:our-mission&itemid=82)

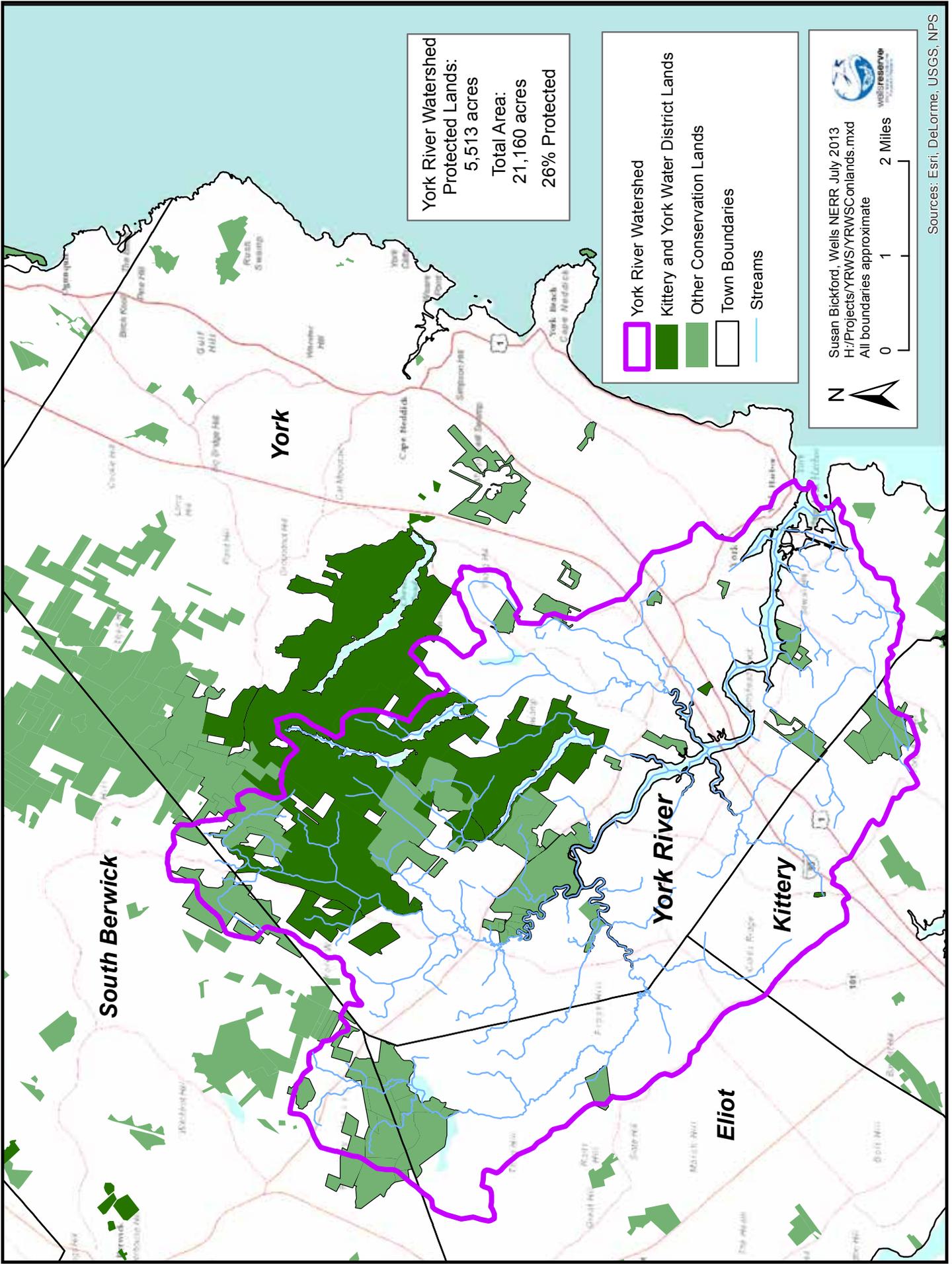
32 <http://kitterymuseum.com/>

33 [http://yorkrivers.org/york\\_river\\_watershed\\_wnerr.pdf](http://yorkrivers.org/york_river_watershed_wnerr.pdf)

34 [http://swim.wellsreserve.org/town.php?town\\_id=35](http://swim.wellsreserve.org/town.php?town_id=35)

35 <http://www.mta2c.org/>

36 <http://www.wellsreserve.org/preservation/>



*It will contain approximately 14,600 acres when land acquisition is complete. The proximity of the refuge to the coast and its location between the eastern deciduous forest and the boreal forest creates a composition of plants and animals not found elsewhere in Maine.<sup>37</sup> The Refuge has selected the York River headwaters as part of its critical expansion area because of its resource values.*

*York Water District is dedicated to conserving and protecting the District's natural resources and assets to ensure high quality drinking water.<sup>38</sup> They conduct a watershed monitoring program.*

*Kittery Water District recognizes that water and watersheds must be preserved, conserved and protected; that an adequate supply of clean water is a basic human right; that water is a public trust, to be guarded by all levels of government acting as an equal partner with the public; and that the best advocates for water are local communities and citizens.<sup>39</sup>*

*Maine Department of Inland Fisheries & Wildlife – holds and manages significant conservation land around York Pond in the upper York River watershed.<sup>40</sup>*

### **Route I-95 and Route 1 Bridge Crossings**

The river segment that includes the I-95 and Route 1 bridge crossing would require special attention and coordination with state and federal highway administrations during a suitability analysis. It would be important to consider future reconstruction plans in the context of a potential WSRA Section 7 review.

Local stakeholders conducted a meeting with the Maine Turnpike Authority on August 12, 2013 to make them aware of the proposed Study. There was no indication that they would oppose the proposed Study.

### **B. Existing Support for Wild and Scenic Study**

The locally-based Friends of the York River group led the exploratory effort to determine the level of support for a Wild and Scenic Study. The group held a variety of public meetings and gathered letters of support for a Wild and Scenic Study from individuals, organizations and the three towns.

*The towns and organizations that provided letters of support for a Study include:*

Town of York Board of Selectman/Town Manager  
The Greater York Region Chamber of Commerce  
York Water District  
York Land Trust  
York Conservation Commission  
York Country Club  
York School Department  
Museums of Old York  
York Harbor Board  
York Park and Recreation Department  
Friends of York River  
York Shellfish Conservation Committee  
Town of Eliot Board of Selectman  
Eliot Conservation Commission  
Eliot Historical Society  
Great Works Regional Land Trust  
Eliot Open Space Committee  
Town of Kittery Town Council  
Kittery Land Trust  
Maine Coast Heritage Trust  
Gundalow Company

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37 [http://www.fws.gov/refuge/rachel\\_carson/about.html](http://www.fws.gov/refuge/rachel_carson/about.html)

38 <http://www.yorkwaterdistrict.org/>

39 <http://kitterywater.org/>

40 <http://www.maine.gov/ifw/>

**The individuals that provided letters of support for a Study include:**

State Representative Chellie Pingree

Marion Thompson Fuller Brown – shorefront property owner, past State Representative

State Senator Dawn Hill

State Representative Windol Weaver

Neil Rold, York resident, past State Representative

Stuart Dawson, landscape architect/planner

Dave Gittens, York shorefront property owner – fishing guide

Susan D. Meffert, York resident

Barrie Munro, past York Planning and Conservation Committees member

Patten D. White, York shorefront property owner – lobsterman

The State Department of Conservation (DOC) is engaged in the process and a DOC staff member is included on all communications and meeting invitations.

**C. Partnership Wild and Scenic River Considerations**

Based on available information there seems to be a willingness among local, state, federal and other partners to participate cooperatively in a Wild and Scenic River Study, including development of a river management plan to manage, protect and enhance the Wild and Scenic River values that include free-flowing condition, water quality and Outstandingly Remarkable Values (ORVs). Key local leaders have been working for over four years to educate the public and build support for federal Wild and Scenic Study authorization.

There was one potential water resources development project that was identified during this reconnaissance survey related to the potential future need to dredge the York Harbor to remove silt. It is recommended that the Study Team explore the likelihood that this type of project would be undertaken to evaluate the scope and potential impacts to Wild and Scenic River values.

## VI. NPS Findings

Based on a preliminary analysis through this reconnaissance survey, the National Park Service (NPS) concludes that the York River appears to be a good candidate for a Wild and Scenic River Study. This conclusion is founded on preliminary evidence of free-flowing river conditions and the presence of multiple natural, cultural and recreational resources with potential to meet the Outstandingly Remarkable Value threshold as defined by the Wild and Scenic Rivers Act. There is demonstrated local and regional interest and support for a study, and existing river/watershed protection elements that would support the NPS framework for a Partnership Wild and Scenic River designation. In addition, local stakeholders have indicated an initial level of interest in developing the river management plan that would be developed as a part of the Study process, and required as a part of the designation. As a part of any eventual Study, special attention regarding eligibility and suitability should be paid to existing dams in the watershed, the Rte 95/ Rte 1 crossing area, the historic waterfront, and the lower harbor area.

In sum, all of the elements for a successful Study process appear to be in place for the York River. The local stakeholders have indicated an interest in pursuing a York River watershed-wide Study approach and the NPS concurs that this would be an appropriate study methodology for the York River. If a Study is authorized by Congress, the NPS believes that the use of the established Partnership Wild and Scenic River Study process, in close cooperation with the towns of Eliot, South Berwick, Kittery and York, the State of Maine, and other local and regional stakeholders would be an effective approach.

Photo: Karen Young





Photo: Joyce Kennedy Raymes





Wild and Scenic River Reconnaissance Survey  
of the York River





AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> December 5, 2014	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action  <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> December 8, 2014	
<b>Regular</b> <input checked="" type="checkbox"/> <b>Work Session</b> _____	
<b>Subject:</b> Discussion and Possible Action Regarding the Town Manager Vacancy	

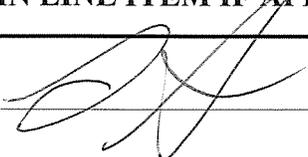
<b>TO:</b> BOARD OF SELECTMEN
<b>FROM:</b> Liam Gallagher, Director of Human Resources
<b>RECOMMENDATION:</b> Discussion and possible action on authorizing the commencement of contract negotiations, through Maine Municipal Association, with Stephen H. Burns for the position of Town Manager.
<b>PROPOSED MOTION:</b> I move to commence contract negotiations with Stephen H. Burns for the position of Town Manager.

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**Discussion:** The Board of Selectman will discuss commencing employment contract negotiations with for the position of Town Manager.

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<b>FISCAL IMPACT:</b> TBD
<b>DEPARTMENT LINE ITEM ACCOUNT:</b>
<b>BALANCE IN LINE ITEM IF APPROVED:</b>

Prepared By:  \_\_\_\_\_

Reviewed By: \_\_\_\_\_



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> December 5, 2014	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> December 8, 2014	
<b>Regular</b> <input checked="" type="checkbox"/> <b>Work Session</b> <input type="checkbox"/>	
<b>Subject:</b> Planning Board Appointment	

<b>TO:</b> BOARD OF SELECTMEN
<b>FROM:</b> Melissa M. Avery; Assistant to the Town Manager
<b>RECOMMENDATION:</b>
<b>PROPOSED MOTION:</b> I move to appoint Gordon Eldridge as a Regular Member (Beach Representative) to the Planning Board, with a term expiring June 30, 2015.

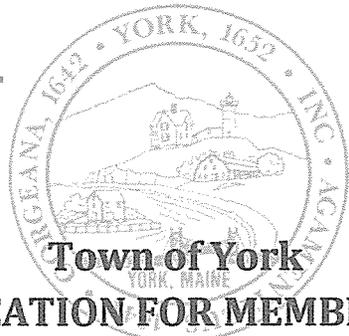
**Discussion:**

<b>FISCAL IMPACT:</b> N/A
<b>DEPARTMENT LINE ITEM ACCOUNT:</b> N/A
<b>BALANCE IN LINE ITEM IF APPROVED:</b> N/A

Prepared By: Melissa M. Avery

Reviewed By: [Signature]

6:10



Town Manager's Office 363-1000  
Finance Office 363-1004  
Facsimile 363-1009/363-1019

Community Development 363-1002  
Planning Department 363-1007  
Town Clerk/Tax Collector 363-1003

### APPLICATION FOR MEMBERSHIP

Town Boards, Committees and Commissions

| PLEASE FILL OUT AND RETURN TO THE TOWN MANAGER'S OFFICE |

Name: Gordon H. Eldridge Date: Oct. 10, 2014  
Physical Address: 8 Reserve Street, York, Maine 03909  
Mailing Address: Same  
Home Telephone: 207-703-1106 Mobile Telephone: 952-210-5214  
Email: gord.peni@gmail.com State of Residency: Maine

Why do you wish to serve? I understand the concerns beach residents have expressed regarding representation in municipal matters. It is important that all of our residents' concerns are addressed in the planning process.

Why expertise can you provide? My airline career included 15 years of detailed decisions that certified an aircraft safe and released for flight. With some help and training, I expect to be able to devote my time to the same level of detail in the planning process.

PLEASE CHECK THE BOARD(S), COMMITTEE(S) OR COMMISSION(S) YOU WISH TO APPLY TO FOR MEMBERSHIP CONSIDERATION:

<input type="checkbox"/>	Appeals Board	<input type="checkbox"/>	Parks and Recreation Board
<input type="checkbox"/>	Assessment Review Board	<input checked="" type="checkbox"/>	Planning Board
<input type="checkbox"/>	Cable TV Regulatory Commission	<input type="checkbox"/>	Senior Citizens Advisory Board
<input type="checkbox"/>	Conservation Commission	<input type="checkbox"/>	Shellfish Conservation Commission
<input type="checkbox"/>	Energy Efficiency Steering Committee	<input type="checkbox"/>	Sohier Park Committee
<input type="checkbox"/>	Harbor Board	<input type="checkbox"/>	York Harbor Site Design Review Board
<input type="checkbox"/>	Historic District Commission	<input type="checkbox"/>	York Housing Authority
<input type="checkbox"/>	Municipal Social Services Review Board	<input type="checkbox"/>	Other:

**BELOW IS FOR OFFICE USE ONLY**

Received Date: 10/14/2014 Received By: mmavery  
Interview Date: 12/8/2014 Appointment Date:     /    /



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> December 5, 2014	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> December 8, 2014	
Regular <input checked="" type="checkbox"/> Work Session <input type="checkbox"/>	
<b>Subject:</b> Board of Appeals Appointment	

**TO:** BOARD OF SELECTMEN

**FROM:** Melissa M. Avery; Assistant to the Town Manager

**RECOMMENDATION:**

**PROPOSED MOTION:** I move to appoint Victor Manougian as an Alternate Member to the Board of Appeals, with a term expiring June 30, 2015.

**Discussion:**

**FISCAL IMPACT:** N/A

**DEPARTMENT LINE ITEM ACCOUNT:** N/A

**BALANCE IN LINE ITEM IF APPROVED:** N/A

Prepared By: Melissa M. Avery

Reviewed By: [Signature]

6:00

Town Manager's Office 363-1000  
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Community Development 363-1002  
Planning Department 363-1007  
Town Clerk/Tax Collector 363-1003

### Town of York APPLICATION FOR MEMBERSHIP

Town Boards, Committees and Commissions

| PLEASE FILL OUT AND RETURN TO THE TOWN MANAGER'S OFFICE |

Name: V. Victor Manougian Date: 9/19/14

Physical Address: 171 Old Post Road, York, ME 03909

Mailing Address: Same

Home Telephone: \_\_\_\_\_ Mobile Telephone: 617-304-1011

Email: vmanougian@yahoo.com State of Residency: ME

Why do you wish to serve? I have been coming to York since my brother bought a home in 1994. I purchased my home about 5 years ago and became a resident about 3 years ago. I like the character and charm of York and would like to be involved in keeping it that way by serving on the Board.

Why expertise can you provide? I have strong background and interest in Municipal Law and Zoning I was previously an Assistant Town Counsel for 7 years. I am currently employed by the McLane Law Firm in Manchester, NH and work in Land Use and Development Law.

PLEASE CHECK THE BOARD(S), COMMITTEE(S) OR COMMISSION(S) YOU WISH TO APPLY TO FOR MEMBERSHIP CONSIDERATION:

<input checked="" type="checkbox"/>	Appeals Board	<input type="checkbox"/>	Parks and Recreation Board
<input type="checkbox"/>	Assessment Review Board	<input type="checkbox"/>	Planning Board
<input type="checkbox"/>	Cable TV Regulatory Commission	<input type="checkbox"/>	Senior Citizens Advisory Board
<input type="checkbox"/>	Conservation Commission	<input type="checkbox"/>	Shellfish Conservation Commission
<input type="checkbox"/>	Energy Efficiency Steering Committee	<input type="checkbox"/>	Sohier Park Committee
<input type="checkbox"/>	Harbor Board	<input type="checkbox"/>	York Harbor Site Design Review Board
<input type="checkbox"/>	Historic District Commission	<input type="checkbox"/>	York Housing Authority
<input type="checkbox"/>	Municipal Social Services Review Board	<input type="checkbox"/>	Other:

**BELOW IS FOR OFFICE USE ONLY**

Received Date: 9/23/14 Received By: \_\_\_\_\_

Interview Date: \_\_\_/\_\_\_/\_\_\_ Appointment Date: \_\_\_/\_\_\_/\_\_\_