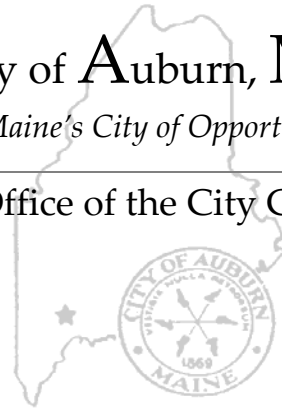


City of Auburn, Maine

"Maine's City of Opportunity"

Office of the City Clerk



Council Meeting Agenda Packet

August 17, 2009

This packet contains the City Council Agenda and supporting documents. The items in this packet are bookmarked in Adobe Acrobat .pdf format. You may need to click on the Bookmark tab on the left to open the Bookmark window. If you do not see a Bookmark tab on the left, you may need to select the Show/Hide Navigation Pane button in your icon toolbar above or update your version of the Adobe Reader. You can download the free Adobe Reader application at www.adobe.com.



City Council Meeting and Workshop August 17, 2009

*"While your responsibility may
be individual, your authority is
collective" ¹*

Agenda

5:30 p.m. Workshop

- A. Discussion: Anaerobic digestions project (Mac Richardson, Supt of LAWPCA; John Donovan, Camp, Dresser, McKee; and Norm Lamie, Sewer District – 25 min)
- B. Discussion: enterGov Solutions Software (Glenn Aho, Laurie Smith, and David Galbraith – 15 min)
- C. Discussion: Amendment to Zoning Ordinance Re: Lot Size Requirements for Two Family in Urban Residential Zone (Eric Cousens – 15 min)
- D. Discussion: Ingersoll Arena By-laws and Advisory Committee (Peter Bushway – 20 min)

7:00 p.m. City Council Meeting

Consent Items – All items listed with an asterisk (*) are considered as routine and will be approved in one motion. There will be no separate discussion of these items unless a Councilor or citizen so requests. If requested, the item will be removed from the consent agenda and considered in the order it appears on the agenda.

* Minutes of August 3, 2009

* Communication from Debora Cusson Re: Resignation from Community Development Loan Committee

*Communication from Support Solutions Re: Waive fee for Permit

II. Minutes

III. Reports

Mayor

Proclamation – Family Day – A Day to Eat Dinner with Your Children

Communication from Auburn Water District Re: Appointment of LAWPC

City Councilors

- Michael Farrell: Water Dist., L/A Jt. City Council Planning, Audit and Procurement, Neighborhood Stabilization Program Advisory Committee
- Bob Hayes: Railroad, Library, Audit and Procurement
- Dan Herrick: MMWAC, Auburn Housing
- David Young: A-L Airport, L/A Joint City Council Planning, Cable TV Adv Board
- Ray Berube: LAEGC, Planning Board, L/A Joint City/School, ABDC, AVCOG, 9-1-1
- Bob Mennealy: Sewer District, University of Maine L-A,
- Ron Potvin: School Committee, LATC, L/A Joint City/School

City Manager

Finance Report – Month of July

IV. Communications, Presentations and Recognitions

081709-00 Presentation by Jonathan Labonte – General Activities in County Government

¹ Denis Culley, Attorney/Planning Board Member, Town of Mercer

V. Open Session – Members of the public are invited to speak to the Council about any issue directly related to City business which is *not* on this agenda.

VI. Unfinished Business

081709-01 Ordinance – Chapter 29, Amendments to Sections 7.1 Site Plan Review and 7.3 Subdivisions (2nd Reading)

VII. New Business

081709-02 Resolve – Authorize Tax Assessor to Abate Taxes Re: Littlefield Hydro Company

081709-03 Public Hearing and action regarding Determination of Presumed Abandoned Roads for Browns Crossing Rd, Elmwood Rd, Sopers Mill Rd, Range Rd, and Ryan's Way

- a. Resolve – Determination of a Presumption of Abandonment for a Portion of Browns Crossing Road
- b. Resolve – Determination of a Presumption of Abandonment for a Portion of Elmwood Rd
- c. Resolve – Determination of a Presumption of Abandonment for a Portion of Sopers Mill Rd
- d. Resolve – Determination of a Presumption of Abandonment of the Range Road
- e. Resolve – Determination of a Presumption of Abandonment for a Portion of Ryan's Way

081709-04 Ordinance – Chapter 20, Article 1 – International Building Code and Article 2 – International Residential Code (1st Reading)

081709-05 Resolve – Authorize City Manager to accept \$5,000 from SPC Trucking Re: West Hardscrabble Road Improvements

081709-06 Sign "Certificate of Settlement" for 2008-2009 Tax Year

081709-07 Executive Session (Title 1, Section 405, Subsection 6E)

VIII. Open Session - Members of the public are invited to speak to the Council about any issue directly related to City business which is *not* on the agenda.

IX. Future Agenda/Workshop Items

X. ADJOURNMENT

Executive Session: On occasion, the City Council discusses matters which are required or allowed by State law to be considered in executive session. Executive sessions are not open to the public. The matters that are discussed in executive session are required to be kept confidential until they become a matter of public discussion. In order to go into executive session, a Councilor must make a motion in public. The motion must be recorded, and 3/5 of the members of the Council must vote to go into executive session. An executive session is not required to be scheduled in advance as an agenda item, although when it is known at the time that the agenda is finalized, it will be listed on the agenda. The only topics which may be discussed in executive session are those that fall within one of the categories set forth in Title 1 M.R.S.A. Section 405. Those applicable to municipal government are:

1. Discussion of personnel issues
2. Discussion or consideration of the condition, acquisition, or the use of real or personal property or economic development if premature disclosure of the information would prejudice the competitive or bargaining position of the body or agency.
3. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators.
4. Consultations between a body or agency and its attorney
5. Discussion of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute.
6. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes
7. Consultations between municipal officers and a code enforcement officer relating to enforcement matter pending in District Court.

City of Auburn, Maine

"Maine's City of Opportunity"

Office of Planning & Permitting

Planning Board Report

Workshop Item C

To: Auburn Planning Board

From: Eric J. Cousens, City Planner

Re: Citizen petition for zoning text amendment – Public hearing for a recommendation to the City Council on a proposal to amend the City Of Auburn Zoning Ordinance Chapter 29, Section 3.43.C.1 to allow 2-family dwellings in the Urban Residence zoning district on lots with a minimum of 12,000 square feet of lot area (current standard requires 14,500 sf) pursuant to Section 8.1 of Chapter 29.

Date: July 14, 2009

I. HISTORY

In September of 2005 James A. Owen and Tammy Thurston applied for a building permit to construct a 3-car garage with living space on the second floor at 8 Hazelhurst Street. The applicants informed Staff that they had a relative that was moving in with them and would occupy the new space as well as share the rest of the single family home and cooking facilities with them-as a single family unit. Although they were not proposing a second residential unit at that time the plans looked as though the new space could be easily converted to a second unit. Based on past experiences with similar situations Staff made them aware of the lot size requirements of the UR zoning district and that based on those standards, their lot (12,600+/- square feet) could not accommodate a second unit. A copy of the certificate of occupancy, with conditions, is to the right. Recently, we learned that the two spaces have been separated and each space contains kitchen and bath facilities, thereby, creating two residential units by definition. The unit above the garage has also been rented separately for some time. The property owners informed staff that the only way that they could afford to stay in their home was to have the second unit. As we always do in enforcement matters, Staff discussed all of their options with them and they included the following:

CITY OF AUBURN, MAINE

Community Development Department

CERTIFICATE OF OCCUPANCY

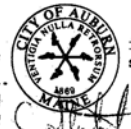
ISSUED TO: James A. Owen

DATE: 02/27/06

This is to certify that the building or part thereof located at 8 Hazelhurst Street
Map No. 209-113 has had a final inspection under building permit No. 45885
and occupancy is hereby authorized.

Limiting Conditions: Use of space
family use only. No rental of
cooking facilities are allowed.

This Certificate Supersedes
Certificate Issued



is, and shall remain single
space allowed. No second day

Mark C. Stambach
Building Inspector

1. Purchase land from an abutter to increase their lot size to at least 14,500 square feet. This option was eliminated due to abutters' lot size requirements.
2. Eliminate the second unit's kitchen, make the spaces function as a single unit and cease renting to a second family unit.
3. Propose a change to the ordinance as every citizen has a right to consideration of a change by petition.

II. PROPOSAL

We have received a petition from more than 25 registered voters to amend the City Of Auburn Zoning Ordinance Chapter 29, Section 3.43.C.1 to allow 2-family dwellings in the Urban Residence zoning district on lots with a minimum of 12,000 square feet of lot area (current standard requires 14,500 sf). The City Clerk has verified the signatures as required by the Ordinance. I provided the above history to be completely open about what got us to this point; however, I am sure the Board will give this an objective review based on the merits of the proposal and not the history. The purpose statement of the UR zone is shown below:

Purpose – This district is intended to provide for, protect and stabilize medium density urban residential areas of single and two-family detached dwellings and their adjunct public and institutional uses. It is designed to assure a family living environment in an urban setting through lot size requirements that provide adequate yard space for family outdoor activity and play space for children.

Based on the Ordinance and Comprehensive Plan, Staff is neither for, nor against this change but will give the Planning Board as much information as possible to consider the change and make a recommendation to the City Council. The change, as proposed, would apply to all UR zoned areas in the City. Attached is a map titled “URBAN RESIDENTIAL ZONE” that shows all of the properties within the UR zone with a red outline. Inside that red outline the properties are color coded into three categories:

Yellow - All UR zoned properties with a single-family use (LUC 01).

Green - All UR zoned properties with a two-family use (LUC 02).

Pink- All UR zoned properties that that are not one of the above.

A data table from the City GIS is provided below. The focus will be on the column showing those lots with between 12,000 and 14,500 square feet of lot area. At first glance, it would appear that approximately 227 lots would gain flexibility if the proposed change is to pass. The 227 lots are those lots with a single-family home in the UR

		<u>Over 14,500 square feet</u>	<u>Between 12,000 and 14,500 square feet</u>	<u>Under 12,000 square feet</u>
	<u>Total</u>			
<i># of Lots in the UR Zone</i>	3370	1408	287	1675
<i># of Lots in UR with LUC 01</i>	2529	1020	227	1282
<i># of Lots in UR with LUC 02</i>	263	121	23	119

zone that, under the current standard could not accommodate a two-family home, but would be allowed to add a unit if the standard were changed to 12,000 square feet. If you add lots with LUC 01 (227) and LUC 02 (23) and subtract that (250) from the total # of lots in the UR zone (287), you will notice that there are 37 lots in the UR zone with a lot size between 12,000 and 14,500 square feet that are unaccounted for. Those lots are either unbuildable for frontage or some other reason, used for a non-conforming use (could be commercial or multi-family) or just raw land. With our existing data, it would be more difficult to account for each of those 37 properties than it is worth for this discussion. Based on the above there are approximately 227 properties out of the 9,000 plus properties in the City that would be directly affected by this change.

There is one other provision in the City of Auburn Ordinance that significantly changes the number of impacted properties. Chapter 29, Section 3.1. C reads as follows:

Conversion of One-Family Dwellings – In all residential, general business and central business districts, one-family dwellings erected prior to January 1, 1958 may be converted to two-family dwellings provided that:

1. Any floor space created by additions to the existing structure after January 1, 1958 shall not be converted to a second dwelling.
2. There will not be less than one accessible off-street parking place of 200 square feet area, exclusive of driveways, per dwelling unit resulting from such conversion.
3. Stairways leading to any floor above the first floor will be enclosed within the exterior walls of the dwelling and any fire escapes required will be on the rear or one side of the dwelling and not on any wall facing a street.
4. After such conversion, the building converted will retain substantially the appearance and character of a one-family dwelling.

Of the 227 lots in the UR zone, with a single-family use and between 12,000 and 14,500 square feet of lot area, there are approximately 80 that were built after January 1, 1958. These 80 lots (.8% of lots in Auburn) are the lots directly affected by this change and the property at 8 Hazelhurst is one of them. The other 147 lots (227-80) in the UR zone, with a single-family use and between 12,000 and 14,500 square feet of lot area could already be converted regardless of lot size if the condition of Section 3.1.C.1-4 could be met. For perspective, there are 1,161 UR zoned lots with less than 14,500 square feet of lot area that, regardless of lot size, could be converted to allow a second unit under Chapter 29, Section 3.1.C.

It is staff's opinion that the proposed ordinance change will not have a significant positive or negative impact on the community, but it would increase the number of lots that would allow a two-family home in the UR zoning district. Some property owners would not choose to take advantage of this flexibility, while others could for a rental income or simply an in-law

apartment. Some neighbors may not want a two-family home next door, but many of the older single-family neighborhoods were built before 1958 and could already allow a second unit. I hope the above information will help the Board consider this proposal.

III. RECOMMENDATION:

Staff recommends that the Planning Board consider the proposal to amend the City Of Auburn Zoning Ordinance Chapter 29, Section 3.43.C.1 to allow 2-family dwellings in the Urban Residence zoning district on lots with a minimum of 12,000 square feet of lot area (current standard requires 14,500 sf) and determine if such a change is warranted and/or appropriate and forward a recommendation to the City Council.

Eric Cousens
City Planner

WORKSHOP ITEM D

INGERSOLL ICE ARENA

CITY COUNCIL WORKSHOP

AUGUST 17, 2009

Peter G. Bushway
Auburn Parks & Recreation
8/13/09

Ingersoll Ice Arena Committee for Excellence

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Ingersoll Ice Arena Committee for Excellence

Ingersoll Ice Arena Plan For FY 10

August 12, 2009

As we approach the end of our successful first year of operating for 11 months, we are very much looking forward to next year. Plenty of excitement has been generated around the city about Ingersoll Ice Arena. Moving forward we have plans to continue improving and expanding the facility and the services we provide to the skating public.

The goals and objectives we have set for ourselves are listed below in this document. As you will see some of them are very aggressive while others you may not even notice.

The building improvements will be paid for using a combination of arena operating funds, fund raising activities and donations from the community.

The plans for the arena have been bulleted into two categories; building improvements and management improvements. Some of these goals are easily obtainable this year while others may take a little more time and a lot of effort to complete. However, with your support we will make a difference in providing a quality service at an affordable cost to the community. I hope that you will continue to support us and “*the coolest place to be*”, Ingersoll Ice Arena.

Building Improvements	Management Improvements
New floor matting \$20,000	Increase hours of ice time rented to 2,000
Repair sprinkler system \$20,000	Maintain \$100,000 fund balance
New sound and light system \$5,000	Identify seasonal staffing needs
New Scoreboard\$ 10,000	Establish ICE Committee
Television Monitors \$1,500	Complete maintenance manual
Gas Heaters \$2,000	Part time training manual
Redesign parking lot \$10,000	Create own website
New Bleachers \$85,000	Implement new scheduling software
Expand locker rooms \$150,000	Improve our marketing program
Provide a Warm Room \$50,000	Organize two tournaments

One goal in particular that will require your involvement is the Ingersoll Ice Arena Committee for Excellence (ICE).

Ingersoll Ice Arena Committee for Excellence

I would like to ask the Council to appoint a committee to assist the arena with fund raising for capital improvements. The City Council will take applications and then appoint the committee under the by laws included in your packet. The Council will serve as the Board of Directors for the committee with the Parks and Recreation Dept. serving as the managing agent. A Trust Account will be established with the Finance Department in accordance with all State laws governing trust accounts.

The ICE Committee will assist the Department in achieving the goals and objectives approved by the Director of Parks and Recreation each year. The Ingersoll Ice Arena Manager will serve as the Ex-Officio of the committee and direct its work.

Projects recommended by the ICE Committee to be fund raised for will be approved by the Director of Parks and Recreation and the Board of Directors.

The funds raised by the committee will be deposited into a trust account and managed by the City of Auburn Finance Department. Funds can only be spent on the approved project(s) it was intended to support.

I would like to move as quickly as possible to appoint this committee and ask that applications be made public beginning tomorrow. Appointments to the committee can begin as soon as the September 8th City Council meeting.

Ingersoll Ice Arena Committee for Excellence

Ingersoll Arena Capital Improvement Plan

FY10-14

ITEM	YEAR	APPROXIMATE COST
Floor Matting 5,000 sq.ft	2010	\$20,000.00
Repair Sprinkler System	2010	\$19,500.00
New Sound System	2010	\$5,000.00
New Scoreboard	2010	\$10,000.00
Redesign Parking Lot	2010	\$5,000.00
New Bleachers	2010	\$85,000.00
Warm Room	2011	\$50,000.00
Expand Locker Rooms	2011	\$150,000.00
Construct Parking Lot	2011	\$31,000.00
New Skate Sharpener	2011	\$12,000.00
Replace Hot Water Heater	2011	\$6,000.00
New Concession Equipment	2011	\$5,000.00
Insulate Walls	2011	\$31,000.00
Replace Two Furnaces	2012	\$13,000.00
Office Furniture/Fixtures	2012	\$5,000.00
Floor Matting 5,000 sq.ft.	2013	\$20,000.00
New Resurface Machine	2014	\$90,000.00
Storage Room	2014	\$25,000.00

Ingersoll Ice Arena Committee for Excellence

Ice By-Laws

ARTICLE I — Authority

Section 1 – Establishment: Formation of this committee will be established by the Auburn City Council pursuant to the City of Auburn Charter effective July 1, 2006; Article 3, Sec.3.3, and hereby serves as the Board of Trustees of the Ingersoll Ice Arena Committee of Excellence (ICE).

ARTICLE II - Board of Trustees

Section 1 – Financial Operations

The Board of Trustees may delegate the financial and operational performance of the Arena to the Auburn Parks and Recreation Director, who then may also delegate the responsibility and authority to the Ice Arena Manager.

Section 2 – Ex-Officio: The Director of the Parks and Recreation Director shall select the Ingersoll Ice Arena Manager as staff member to serve as the Ex-Officio for the Ingersoll Ice Arena Committee for Excellence (ICE). The Director or designee will serve as Ex-Officio in the absence of the Arena Manager.

ARTICLE III– Name and Purpose

Section 1 – Name: The name of the Committee shall be the Ingersoll Ice Arena Committee for Excellence (ICE).

Section 2 – Purpose: The purpose the ICE is to advise the Ingersoll Ice Arena in facilitating and enhancing the physical plant, arena programs, fund raising, volunteering and other advisory activities determined by the Arena Manager.

ARTICLE IV – Members

Section 1 – Eligibility: Eligibility will be open to all interested individuals in achieving the stated purpose of the ICE committee.

Section 2 – Number of members: The committee will consist of seven (7) voting members.

Ingersoll Ice Arena Committee for Excellence

Section 3 – Application for Members: All interested persons will follow the same procedure as other City committee applicants by filling out a Community Service Volunteer form available at the City Clerk's office or on line at www.auburnmaine.org.

Section 4 – Appointment of Members: Applications will be reviewed and acted upon by the Board of Directors. The Board of Directors may appoint members from the list of applications received. Members serve at the pleasure of the Board of Directors for a period of time not to exceed two (2) years.

Section 5 – Length of Term: The members of the ICE Committee shall be appointed to staggered two-year terms. When the first appointments are made, four members shall be appointed to a two-year term, three members shall be appointed to a one year.

ARTICLE V – Meetings

Section 1 – Regular meetings: Regular meetings of the members shall be held at least quarterly and more frequently as determined by the Ex-Officio. Meeting location will be determined by the Ex Officio.

Section 2 – All meetings are open to the public

Section 3 – Quorum: A majority of members present at any properly announced meeting shall constitute a quorum.

Section 4 – Voting: All issues to be voted on shall be decided by a simple majority of those present at the meeting in which a quorum is present.

Section 5 – Voting: All votes cast by the ICE Committee are advisory

Section 6 – Minutes: Minutes shall be taken by a member of the committee and kept in a file at the Ingersoll Ice Arena Administrative offices.

ARTICLE VI — Ex-Officio

Section 1 – Ex-Officio: The Ex-Officio of the ICE Committee shall be the Ingersoll Ice Arena Manager or the Parks and Recreation Director or designee in their absence.

The Ex-Officio has day-to-day responsibilities for the operation of the Ingersoll Ice Arena, including carrying out the department's goals and policies.

The Ex-Officio will attend all ICE Committee meetings, report on the progress of the arena, and lead the committee toward the department's goals.

ARTICLE VII – Fund Raising

Ingersoll Ice Arena Committee for Excellence

Section 1 – The ICE Committee will review the capital improvement program for the ice arena and discuss with the Ex-Officio which capital improvement(s) they would like to fund raise for the arena.

Section 2 – The ICE Committee will take a formal advisory vote on which capital improvement project(s) the Committee may fund raise for and make a recommendation to the Director of Parks and Recreation.

Section 3 – Upon approval of the Director of Parks and Recreation or designee and the Board of Directors the ICE Committee may begin to solicit funding for the improvements.

Section 4 – Should the ICE Committee and the Director of Parks and Recreation or designee disagree on the project to be fund raised; the Board of Directors will make the final decision.

Section 5 – All funds raised by the ICE Board will be deposited with the City's Finance Department in a Trust Account, as specified by MRSA Title 30-A §5653 and §5703 governing gifts of money or property in trust, especially established for the ICE Board's fund raising activity.

Section 6 - Once the goals and objectives to purchase or construct a capital improvement project have been accomplished, the remainder of any donations received will be placed in an account to be used solely for the continued capital improvements to the facility.

ARTICLE VIII– Dissolve

Section 1 – The Board of Directors may at their discretion, dissolve the ICE Committee by a majority vote.

CERTIFICATION

These by laws were approved at a meeting of the Board of Directors by majority vote on:

Ingersoll Ice Arena Committee for Excellence

August 17, 2009

Auburn City Clerk

City of Auburn
Parks & Recreation Department
Ingersoll Ice Arena

Trust Fund

Funding for the capital improvements to the Ingersoll Ice Arena may be raised through the financial support of governmental, business, and private sector contributions. It is clearly worded in the content of The Ingersoll Ice Arena Trust Fund that all money raised for and by The Ingersoll Ice Arena Trust Fund is protected, and cannot be used for any other municipal purpose. As far as the actual time frame for completion of the capital improvements, this will be dictated by the availability of funding to complete each of the different projects outlined in the 10 year Capital Improvement Plan for the arena.

Project Name:

The Ingersoll Ice Arena Trust Fund, hereinafter referred to as, “The Arena Trust Fund”.

Authority:

The Fund is established pursuant to M.R.S.A. Title 30A Section 5653 and Section 5706 and shall take effect upon the approval of the City Council of the City of Auburn.

Purpose:

The purpose of the Arena Trust Fund shall be to solicit contributions that will be used to purchase goods and services and provide funding for capital improvements to the Ingersoll Ice Arena.

Trust Management:

The Auburn City Council shall serve as Trustees of The Arena Trust Fund. City staff will manage, invest, and render annual reports detailing the value and performance of the assets held by The Arena Trust Fund.

Ingersoll Ice Arena Committee for Excellence

Administration:

All contributions to The Arena Trust Fund will be deposited and invested by the City Finance Director in accordance with State Law, M.R.S.A. Title 30A Section 5653 and Section 5706 (2009). All contributions to The Arena Trust Fund, including interest and appreciation thereon, will be expendable in furtherance of The Arena Trust Fund's purposes and objectives specified herein. Assets of The Arena Trust Fund will only be used in furtherance of such purposes and objectives.

Unless the instrument or order creating the trust prohibits, the City may treat any two (2) or more trust funds as a single fund solely for the purpose of investment. The City shall prorate any interest earned or capital gains realized among the various trust funds.

Initial and Future Investments:

Land and capital donations will be accepted as cash equivalent donations and the City of Auburn shall own all assets. Periodically, The Arena Trust Fund will be advertised within a local paper to generate continued donations. The City and or ICE Committee may also solicit donations from other sources including, but not limited to, governments, philanthropists, celebrities, individuals, corporations, businesses, estate bequests, or payroll deductions. Interest earned will be reinvested into The Arena Trust Fund. All donations will be tax deductible.

Donor Recognition:

The Parks and Recreation Department and the ICE Committee will submit to the Trustees a proper means of giving due recognition to The Fund's donors.

Expending the Trust:

The Fund will be designed and designated as an expendable trust fund, whereby principal and interest may be used for the continuing facility operation and or improvement. The Arena Trust Funds may only be used for the purposes as described within this trust as protected by state law.

Acceptance of Funds:

After receiving written notice from a prospective donor or a representative of a donor, the City Council shall submit the matter at the next City Council meeting. Within ten (10) days after the meeting the City Council shall send written notice of its acceptance or rejection to the donor or the donor's representative.

Disbursement of Funds:

Ingersoll Ice Arena Committee for Excellence

Once the goals and objectives to purchase or construct a capital improvement project have been accomplished, the remainder of any donations received will be placed in an account to be used solely for the continued capital improvements to the facility.

Special Note: In order for any future City Council to change the language or designation of this trust fund, the City Council would have to request this change through a court order.

Reversion to Donor:

If the City fails to comply with the terms of the trust instrument, the trust fund reverts to the donors or the donor's heirs.

Title 30-A: MUNICIPALITIES AND COUNTIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Part 2: MUNICIPALITIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Subpart 9: FISCAL MATTERS HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Chapter 223: MUNICIPAL FINANCES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Subchapter 1: GENERAL PROVISIONS HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

§5653. Gifts of money or property in trust

This section governs a municipality's receipt of money or other property in trust for any specified public purpose. The municipal officers shall serve as trustees unless otherwise specified in the trust instrument. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Acceptance or rejection. When the municipal officers receive written notice from a prospective donor or a representative of a proposed trust, they shall submit the matter at the next meeting of the municipal legislative body. Within 10 days after the meeting, the municipal officers shall send written notice of its acceptance or rejection to the donor or the donor's representative.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

2. Deposited or invested. Unless otherwise specified by the terms of the trust, the municipal officers shall either deposit or invest trust funds according to subchapter III-A.

A. Unless the instrument or order creating the trust prohibits, the municipal officers may treat any 2 or more trust funds as a single fund solely for the purpose of investment. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

Ingersoll Ice Arena Committee for Excellence

B. After deducting management expenses, the municipal officers shall prorate any interest earned or capital gains realized among the various trust funds. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The municipal officers shall retain any property or securities included in the corpus of a trust fund where the trust instrument so provides. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Unless otherwise specified in the trust instrument, the municipal officers may spend only the annual income from the trust fund. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

3. Reversion to donor. If the municipality fails to comply with the terms of the trust instrument, the trust fund reverts to the donor or the donor's heirs.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

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[Office of the Revisor of Statutes](#)

7 State House Station

State House Room 108

Augusta, Maine 04333-0007

Title 30-A: MUNICIPALITIES AND COUNTIES HEADING: PL 1987, C. 737, PT. A, §2
(NEW)

Part 2: MUNICIPALITIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Subpart 9: FISCAL MATTERS HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Chapter 223: MUNICIPAL FINANCES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Subchapter 3-A: MUNICIPAL INVESTMENTS HEADING: PL 1987, C. 737, PT. A, §2
(NEW)

Article 1: GENERAL INVESTMENTS HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

§5706. Deposit or investment of funds

As directed by the municipal officers, the treasurer shall invest all municipal funds, including reserve funds and trust funds, to the extent that the terms of the instrument, order or article creating the fund do not prohibit the investment, as follows: [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Financial institutions. In accounts or deposits of institutions insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or the successors to these federal agencies.

A. Accounts and deposits exceeding an amount equal to 25% of the capital, surplus and undivided profits of any trust company or national bank or a sum exceeding an amount equal to 25% of the reserve fund and undivided profit account of a mutual savings bank or state or federal savings and loan association on deposit at any one time must be secured by the pledge of certain securities as collateral, or fully covered by insurance.

(1) The collateral must be in an amount equal to the excess deposit. The municipal officers shall determine the value of the pledged securities on the basis of market value and shall review the value of the pledged securities on the first business day of January and July of each year.

(2) The collateral may consist only of securities in which municipalities may invest, as provided in article 2. The securities must be held in a depository institution approved by the municipal officers and pledged to indemnify the municipalities against any loss. The depository institution shall notify the municipal officers of the pledging when the securities are deposited and shall mail a copy of the notice to the Department of Audit; [1995, c. 206, §1 (AMD).]
[1995, c. 206, §1 (AMD) .]

2. Repurchase agreements. In repurchase agreements with respect to obligations of the United States Government, as defined in section 5712, subsection 1, as long as the market value of the underlying obligation is equal to or greater than the amount of the municipality's investment and either the municipality's security entitlement with respect to the underlying obligation is created pursuant to the provisions of Title 11, Article 8-A and other applicable law or the municipality's security interest is perfected pursuant to the provisions of Title 11, Article 9-A and other applicable law, except that, if the term of the repurchase agreement is not in excess of 96 hours, the municipality's security interest with respect to the underlying obligation need not be perfected as long as an executed Public Securities Association form of master repurchase agreement is on file with the counterparty prior to the date of the transaction;
[1999, c. 699, Pt. D, §19 (AMD); 1999, c. 699, Pt. D, §30 (AFF) .]

3. Mutual funds. In the shares of an investment company registered under the United States Investment Company Act of 1940, Public Law 76-768, whose shares are registered under the United States Securities Act of 1933, Public Law 73-22, provided that the investments of the fund are limited to bonds and other direct obligations of the United States Government, as

Ingersoll Ice Arena Committee for Excellence

defined in section 5712, subsection 1 or repurchase agreements secured by bonds and other direct obligations of the United States Government, as defined in section 5712, subsection 1; [1997, c. 367, §1 (AMD) .]

3-A. Mutual funds for trusts governed by the United States Internal Revenue Code, Section 501(c)(3). In the case of a trust fund that is governed by the United States Internal Revenue Code, Section 501 (c) (3) (1997), in the shares of any investment company registered under the United States Investment Company Act of 1940, Public Law 76-768, whose shares are registered under the United States Securities Act of 1933, Public Law 73-22, as long as:

A. The investment is approved by the municipal officers at a public meeting; and [2003, c. 8, §1 (AMD).]

B. No more than 50% of the assets of the trust are invested in mutual funds under this subsection; or [2003, c. 8, §1 (AMD).]

C. [2003, c. 8, §1 (RP).]
[2003, c. 8, §1 (AMD) .]

4. Safekeeping and investment management agreements. The municipal officers may enter into an agreement with any financial institution with trust powers authorized to do business in the State for the safekeeping of the reserve funds, as defined in section 5801, or trust funds, as defined by section 5653, of the municipality. Services must consist of the safekeeping of the funds, collection of interest and dividends, and any other fiscal service that is normally covered in a safekeeping agreement. Investment of reserve funds or trust funds deposited under a safekeeping agreement may be managed either by the financial institution with which the funds are deposited or by an investment advisor registered with the National Association of Securities Dealers, federal Securities and Exchange Commission or other governmental agency or instrumentality with jurisdiction over investment advisors, to act in such capacity pursuant to an investment advisory agreement providing for investment management and periodic review of portfolio investments. Investment of funds on behalf of the municipality under this section is governed by the rule of prudence, according to Title 18-B, sections 802 to 807 and chapter 9. The contracting parties shall give assurance of proper safeguards that are usual to these contracts and shall furnish insurance protection satisfactory to both parties.

[2003, c. 618, Pt. B, §17 (AMD); 2003, c. 618, Pt. B, §20 (AFF) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1995, c. 206, §1 (AMD). 1995, c. 664, §2 (AMD). 1997, c. 367, §§1,2 (AMD). 1997, c. 429, §C35 (AMD). 1999, c. 699, §D19 (AMD). 1999, c. 699, §D30 (AFF). 2003, c. 8, §1 (AMD). 2003, c. 618, §B17 (AMD). 2003, c. 618, §B20 (AFF).

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7 State House Station

Ingersoll Ice Arena Committee for Excellence

**State House Room 108
Augusta, Maine 04333-0007**

**CITY OF AUBURN
AUGUST 3, 2009
CITY COUNCIL MEETING**

PRESENT

Mayor John T. Jenkins, Councilors Michael J. Farrell, Robert P. Hayes, Daniel R. Herrick, David C. Young, Raymond C. Berube, Ronald W. Potvin, and Robert C. Mennealy, City Manager Glenn Aho, Assistant City Manager Laurie Smith, Finance Director Tracy Roy and City Clerk Mary Lou Magno. There were 13 people in the audience.

Mayor Jenkins called the meeting to order at 7:00 p.m. in the Council Chambers of the Auburn City Building with a salute to the flag.

CONSENT AGENDA

Councilor Berube moved to accept, approve and place on file the items marked with an asterisk. Seconded by Councilor Farrell. Vote: 7 Yeas.

***MINUTES OF JULY 20, 2009**

Approved under consent agenda.

REPORTS OF THE MAYOR

Mayor Jenkins noted several upcoming events and meetings.

REPORTS OF CITY COUNCILORS

Councilors reported on the Council Committee Assignments

REPORTS OF THE CITY MANAGER

None

COMMUNICATIONS, PRESENTATIONS, AND RECOGNITIONS

COMMUNICATION FROM EAST AUBURN BAPTIST CHURCH RE: WAIVE LICENSE FEE

Approved under consent agenda.

OPEN SESSION

Larry Morrisette, PO Box 3036, Auburn; Mike Farrell, 145 Eastman Lane, presented the Mayor and Council with a written document regarding the litigation he has been involved in with the City. (This document has been made part of the records of the Council Meeting.) David Galbraith, Director of Planning and Permitting; and Dan Bilodeau, 207 No Auburn Road.

CLOSED OPEN SESSION

UNFINISHED BUSINESS

None

NEW BUSINESS

**1. RESOLVE – ADOPTION OF POLICY FOR PROCESSING AND REVIEWING
HARDSHIP ABATEMENTS**

Councilor Berube moved for passage of the resolve. Seconded by Councilor Young.
Dot Meagher, Director of Health and Social Services, explained the above policy and answered Councilors questions.

Vote: 7 Yeas.

**2. ORDINANCE – CHAPTER 29, AMENDMENTS TO SECTIONS 7.1 SITE PLAN REVIEW
AND 7.3 SUBDIVISIONS (1ST READING)**

Councilor Potvin moved for acceptance of first reading. Seconded by Councilor Hayes.
Elliott Epstein, 155 Cushman Place, attorney representing Riverwatch, made comments regarding the above ordinance.

David Galbraith, Director of Planning and Permitting, answered Councilors questions.

Vote: 7 Yeas.

3. SET DATE FOR FIRST MEETING IN SEPTEMBER

Councilor Berube moved that the first meeting in September be held on September 8th. Seconded by Councilor Hayes. Vote: 7 Yeas.

**4. CAST BALLOT FOR ANNUAL ELECTION FOR MAINE MUNICIPAL ASSOCIATION
VICE PRESIDENT AND EXECUTIVE COMMITTEE MEMBERS**

Councilor Hayes moved that a ballot be cast for Mark Green as Vice President and for the proposed slate of names for the Executive Committee. Seconded by Councilor Mennealy.

Vote: 5 Yeas with Councilors Farrell and Potvin voting Nay.

OPEN SESSION

Larry Morrisette, PO Box 3036, Auburn; and Dan Bilodeau, 207 No Auburn Road.

CLOSED OPEN SESSION

FUTURE AGENDA/WORKSHOP ITEMS

- Councilors should submit questions regarding Lewiston-Auburn Watershed Protection Commission/Water District to the Mayor; Norm Lamie will be invited to a workshop to answer the various questions
- Crosswalks
- Traffic flow; lights; and synchronization
- Police at construction sites for better traffic flow
- Adopt an ordinance for construction projects to take place at night

ADJOURNMENT – 8:25 P.M.

Councilor Mennealy moved to adjourn. Seconded by Councilor Berube. Vote: 7 Yeas.

A TRUE RECORD

ATTEST: _____
CITY CLERK

Office of the Mayor



PROCLAMATION-FAMILY DAY – A DAY TO EAT DINNER WITH YOUR CHILDREN

- Whereas;* the use of illegal and prescription drugs and the abuse of alcohol and nicotine constitute the greatest threats to the well-being of America's children;
- Whereas,* 14 years of surveys conducted by the National Center on Addiction and Substance Abuse (CASA) as Columbia University have consistently found that the more often children and teenagers eat dinner with their families the less likely they are to smoke, drink and use illegal drugs;
- Whereas,* frequent family dining is associated with lower rates of teen smoking, drinking, illegal drug use and prescription drug abuse;
- Whereas,* the correlation between frequent family dinners and reduced risk for teen substance is well documented;
- Whereas,* parents who are engaged in their children's lives –through such activities as frequent family dinners – are less likely to have children who abuse substances;
- Whereas,* family dinners have long constituted a substantial pillar of family life in America:

Now, therefore, I, John T. Jenkins, Mayor of the City of Auburn, by virtue of the authority vested in me, do hereby proclaim the fourth Monday of every September as

FAMILY DAY - A DAY TO EAT DINNER WITH YOUR CHILDREN

Further, I urge all citizens to recognize and participate in its observance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal
of the City of Auburn, Maine to be fixed this 17th day of Auburn, 2009

John T. Jenkins, Mayor



August 5, 2009

Mayor John Jenkins and City Council
City of Auburn
60 Court Street
Auburn, ME 04210

Honorable Mayor and City Council,

One of the many charges of the Auburn Water District Board of Directors is to appoint 3 representatives to the Lake Auburn Watershed Protection Commission. At our last Water District meeting, the Board discussed the replacement for a current vacancy on the Lake Auburn Watershed Protection Commission.

Trustee/City Councilor Mike Farrell suggested that we may want to consider the appointment of a City Councilor to the LAWPC Board. The Water District is supportive of that thought and requested that I ask the Auburn Mayor and City Council to suggest a potential appointment to the Lake Auburn Watershed Protection Commission.

Two names that have been mentioned to date are Bethel Shields, and Ken Sonagere. Bethel lives in the Lake Auburn watershed, is a former City Councilor and former Trustee of the Auburn Water District. She has attended numerous recent Water District and Watershed Commission meetings. Ken Sonagere also lives in the Lake Auburn watershed, is a current member of the Comprehensive Planning Committee, and is a former member of the Maine Drinking Water Commission. Only one member of the Water District Board may serve on the Watershed Commission Board.

The next Water District Trustee meeting is scheduled for August 19th. The Water District Board of Trustees would greatly appreciate receiving the City Council thoughts and opinions on the upcoming appointment to the Watershed Commission.

Sincerely,

Bruce Rioux, President
Auburn Water District

City of Auburn, Maine

FINANCIAL MANAGEMENT REPORT JULY 2009



PREPARED BY THE FINANCE DEPARTMENT
TRACY ROY, FINANCE DIRECTOR

City of Auburn, Maine

"Maine's City of Opportunity"

Financial Services



TO: Glenn E. Aho, City Manager
FROM: Tracy Roy, Finance Director
REF: July 2009 Financials
DATE: August 13, 2009

Attached please find the financial report for the month of July 2009. The City has completed its first month of the current fiscal year. Since it is the first month of the year, a number of expenditures are due that will not be reoccurring. As a guideline for tracking purposes, revenues and expenditures should amount to approximately 8.3% of the annual budget. However, not all costs and revenues are distributed evenly throughout the year; individual line items can vary based upon cyclical activity.

Revenues

Revenues collected through July 31st were \$2,715,892, or 3.96%, of the budget. The accounts listed below are noteworthy.

- A. Excise tax for the month of July is at 8.39%. This is a \$47,000 decrease from last July and a \$42,000 decrease from fiscal year 2007. The City has not yet seen the benefit from the Cash for Clunkers program in the month of July.
- B. Penalties & Interest are above anticipation due to collection prior year's real estate and personal property taxes.

Expenditures

Expenditures through July 31st were \$4,667,999, or 7.13%, of the budget. Noteworthy variances are:

- A. Mayor and Council: The first payment to the auditors for the fiscal year 2009 audit was paid in July.

CITY OF AUBURN
FINANCIALS -JULY 2009

- B. Community Programs: Full payment of the appropriation for the Liberty Festival Heritage was made on July 1st.
- C. Property: First of the two Property and Casualty installments was made on July 28th.
- D. County Tax: The full payment to the County was due July 1st and made on schedule.

Investments

This section contains an investment schedule as of July 31st, as well as a comparison of the investments between July 31st and the prior month. Currently the City's funds are earning an average interest rate of .37%, compared to approximately 1.71% last year at this time.

Respectfully Submitted,

Tracy Roy
Finance Director

CITY OF AUBURN, MAINE
BALANCE SHEET - GENERAL FUND
July 31, 2009

	July 31 2009 Unaudited	June 30 2009 Unaudited	Increase (Decrease)
<u>ASSETS</u>			
CASH	20,589,470	25,755,381	(5,165,911)
RECEIVABLES			-
ACCOUNTS RECEIVABLES	513,531	350,636	162,894
TAXES RECEIVABLE-CURRENT	37,551,533	-	37,551,533
DELINQUENT TAXES	459,926	693,289	(233,364)
TAX LIENS	1,374,246	1,473,906	(99,660)
NET DUE TO/FROM OTHER FUNDS	(10,871,202)	(12,208,067)	1,336,865
TOTAL ASSETS	49,617,503	16,065,146	33,552,357
<u>LIABILITIES & FUND BALANCES</u>			
ACCOUNTS PAYABLE	99,323	411,148	(311,825)
WAGES & TAXES PAYABLE	(15,246)	(83,527)	68,282
ACCRUED PAYROLL	1,116,042	297,122	818,920
STATE FEES PAYABLE	24,752	917	23,836
PREPAID TAXES			-
IN LIEU OF BONDS	62,697	62,697	-
DEFERRED REVENUE	39,287,427	2,068,327	37,219,100
TOTAL LIABILITIES	40,574,995	2,756,684	37,818,312
FUND BALANCE - NOT DESIGNATED	9,895,651	11,928,475	(2,032,824)
FUND BALANCE - DESIGNATED FOR WORKERS COMP & UNEMPLOYMENT			-
FUND BALANCE - DESIGNATED	1,134,224	1,244,896	(110,672)
NET CHANGE IN FUND BALANCE	(1,987,367)	135,091	(2,122,458)
TOTAL FUND BALANCES	9,042,508	13,308,462	(4,265,954)
TOTAL LIABILITIES AND FUND BALANCES	49,617,503	16,065,146	33,552,357

Note: The June Balance Sheet is preliminary and unaudited

CITY OF AUBURN, MAINE REVENUES - GENERAL FUND COMPARATIVE AS OF July 31, 2009 vs. July 31, 2008						
REVENUE SOURCE	FY 2010 BUDGET	ACTUAL REVENUES THROUGH JULY 31	% OF TOTAL BUDGET	FY 2009 BUDGET	ACTUAL REVENUES THROUGH JULY 31	% OF TOTAL BUDGET
<u>TAXES</u>						
PROPERTY TAX REVENUE- PRIOR YEAR REVENUE	\$ 38,616,214	\$ 328,765	0.85%	\$ 37,959,647	\$ -	0.00%
HOMESTEAD EXEMPTION REIMBURSEMENT ALLOWANCE FOR ABATEMENT	\$ 0	\$ 253,979		\$ -	\$ 823,706	
ALLOWANCE FOR UNCOLLECTIBLE TAXES	\$ 648,980	\$ -	0.00%	\$ 648,980	\$ -	0.00%
EXCISE	\$ -	\$ -		\$ -	\$ -	
PENALTIES & INTEREST	\$ 3,100,000	\$ 259,946	8.39%	\$ 3,200,000	\$ 307,229	9.60%
TOTAL TAXES	\$ 180,000	\$ 34,341	19.08%	\$ 125,000	\$ 12,818	10.25%
	\$ 42,545,194	\$ 877,031	2.06%	\$ 41,933,627	\$ 1,143,753	2.73%
<u>LICENSES AND PERMITS</u>						
BUSINESS	\$ 49,600	\$ 2,805	5.66%	\$ 51,000	\$ 3,530	6.92%
NON-BUSINESS	\$ 297,600	\$ 7,936	2.67%	\$ 274,200	\$ -	0.00%
TOTAL LICENSES	\$ 347,200	\$ 10,741	3.09%	\$ 325,200	\$ 3,530	1.09%
<u>INTERGOVERNMENTAL ASSISTANCE</u>						
STATE-LOCAL ROAD ASSISTANCE	\$ 446,000	\$ -	0.00%	\$ 450,000	\$ -	0.00%
STATE REVENUE SHARING	\$ 3,510,000	\$ 455,120	12.97%	\$ 3,775,000	\$ 939,055	24.88%
WELFARE REIMBURSEMENT	\$ 42,000	\$ 7,525	17.92%	\$ 22,500	\$ 5,065	22.51%
OTHER STATE AID	\$ 25,000	\$ -	0.00%	\$ 30,000	\$ 2,761	9.20%
FEMA REIMBURSEMENT	\$ -	\$ -		\$ -	\$ -	
CITY OF LEWISTON	\$ 154,000	\$ -	0.00%	\$ 154,000	\$ -	0.00%
EDUCATION SUBSIDY	\$ 16,331,017	\$ 1,304,652	7.99%	\$ 16,418,792	\$ 1,373,008	8.36%
TOTAL INTERGOVERNMENTAL ASSISTANCE	\$ 20,508,017	\$ 1,767,297	8.62%	\$ 20,850,292	\$ 2,319,889	11.13%
<u>CHARGE FOR SERVICES</u>						
GENERAL GOVERNMENT	\$ 132,675	\$ 10,118	7.63%	\$ 115,175	\$ 30,799	26.74%
PUBLIC SAFETY	\$ 103,400	\$ 4,888	4.73%	\$ 80,000	\$ 8,724	10.91%
EMS TRANSPORT	\$ -	\$ 72		\$ 310,000	\$ 986	0.32%
EMS AGREEMENT & EMS SPECIAL REVENUE	\$ 70,000	\$ -	0.00%	\$ -	\$ -	
EDUCATION	\$ 2,294,836	\$ 14,664	0.64%	\$ 2,212,514	\$ 141,779	6.41%
TOTAL CHARGE FOR SERVICES	\$ 2,600,911	\$ 29,743	1.14%	\$ 2,717,689	\$ 182,288	6.71%
<u>FINES</u>						
PARKING TICKETS & MISC FINES	\$ 75,000	\$ 1,620	2.16%	\$ -	\$ -	
<u>MISCELLANEOUS</u>						
INVESTMENT INCOME	\$ 300,000	\$ 12,006	4.00%	\$ 400,000	\$ 7,496	1.87%
INTEREST-BOND PROCEEDS	\$ 125,000	\$ -	0.00%	\$ 125,000	\$ -	0.00%
RENTS	\$ 129,000	\$ -	0.00%	\$ 132,500	\$ 275	0.21%
UNCLASSIFIED	\$ 40,500	\$ 880	2.17%	\$ 40,000	\$ 76,021	190.05%
SALE OF RECYCLABLES	\$ 21,000	\$ 187	0.89%	\$ 85,000	\$ 23,196	27.29%
COMMERCIAL SOLID WASTE FEES	\$ 49,600	\$ (196)	-0.40%	\$ 57,500	\$ 24,108	41.93%
SALE OF PROPERTY	\$ 30,000	\$ 125	0.42%	\$ 490,000	\$ -	0.00%
RECREATION PROGRAMS/ARENA	\$ 33,102	\$ -	0.00%	\$ 20,000	\$ -	0.00%
MMWAC HOST FEES	\$ 190,000	\$ 16,458	8.66%	\$ 190,400	\$ 15,520	8.15%
9-1-1 DEBT SERVICE REIMBURSEMENT	\$ -	\$ -		\$ -	\$ -	0.00%
TRANSFER IN: TIF	\$ 258,241	\$ -	0.00%	\$ -	\$ -	
TRANSFER OUT: TIF				\$ 2,500,000	\$ -	0.00%
ENERGY EFFICIENCY	\$ 7,000	\$ -	0.00%	\$ -	\$ -	
CDBG	\$ 8,000	\$ -	0.00%			
UTILITY REIMBURSEMENT	\$ 60,000	\$ -	0.00%			
CITY FUND BALANCE CONTRIBUTION	\$ 600,000	\$ -	0.00%			
SCHOOL FUND BALANCE CONTRIBUTION	\$ 631,000	\$ -	0.00%			
TOTAL MISCELLANEOUS	\$ 2,482,443	\$ 29,460	1.19%	\$ 4,040,400	\$ 146,615	3.63%
TOTAL GENERAL FUND REVENUES	\$ 68,558,765	\$ 2,715,892	3.96%	\$ 69,867,208	\$ 3,796,075	5.43%

CITY OF AUBURN, MAINE
EXPENDITURES - GENERAL FUND COMPARATIVE
AS OF July 31, 2010 vs. July 31, 2009

DEPARTMENT	FY 2010 BUDGET	ACTUAL EXPENDITURES THROUGH JULY 31	% OF TOTAL BUDGET	FY 2009 BUDGET	ACTUAL EXPENDITURES THROUGH JULY 31	% OF TOTAL BUDGET
ADMINISTRATION						
MAYOR AND COUNCIL	\$ 98,763	\$ 8,895	9.01%	\$ 103,500	\$ 30,717	29.68%
LEGAL SERVICES	\$ 64,200	\$ -	0.00%	\$ 55,000	\$ 51	0.09%
CITY CLERK	\$ 147,306	\$ 8,619	5.85%	\$ 140,367	\$ 11,820	8.42%
CITY MANAGER	\$ 365,536	\$ 16,263	4.45%	\$ 227,703	\$ 17,897	7.86%
HUMAN RESOURCES	\$ 137,800	\$ 8,045	5.84%	\$ 125,797	\$ 9,204	7.32%
ASSESSING SERVICES	\$ 187,118	\$ 12,856	6.87%	\$ 270,103	\$ 17,550	6.50%
FINANCIAL SERVICES	\$ 412,589	\$ 32,948	7.99%	\$ 374,058	\$ 52,838	14.13%
CUSTOMER SERVICE	\$ 7,500	\$ -	0.00%	\$ 16,000	\$ 111	0.69%
TOTAL ADMINISTRATION	\$ 1,420,812	\$ 87,626	6.17%	\$ 1,312,528	\$ 140,188	10.68%
COMMUNITY SERVICES						
HEALTH & SOCIAL SERVICES						
ADMINISTRATION	\$ 61,766	\$ 4,018	6.50%	\$ 49,240	\$ 3,682	7.48%
ASSISTANCE	\$ 85,835	\$ 7,042	8.20%	\$ 48,450	\$ 4,478	9.24%
INFORMATION SYSTEMS						
ICT	\$ 293,862	\$ 6,337	2.16%	\$ 258,809	\$ 11,388	4.40%
ENGINEERING	\$ 347,145	\$ 21,167	6.10%	\$ 435,626	\$ 29,944	6.87%
PLANNING & PERMITTING	\$ 782,426	\$ 50,657	6.47%	\$ 829,982	\$ 57,873	6.97%
PARKS AND RECREATION	\$ 585,295	\$ 38,735	6.62%	\$ 613,361	\$ 42,894	6.99%
PUBLIC LIBRARY	\$ 919,407	\$ 76,617	8.33%	\$ 919,407	\$ 76,617	8.33%
COMMUNITY PROGRAMS	\$ 13,650	\$ 9,450	69.23%	\$ 13,650	\$ 10,450	76.56%
TOTAL COMMUNITY SERVICES	\$ 3,089,386	\$ 214,022	6.93%	\$ 3,168,525	\$ 237,325	7.49%
FISCAL SERVICES						
DEBT SERVICE	\$ 6,780,939	\$ -	0.00%	\$ 7,026,199	\$ -	0.00%
PROPERTY	\$ 629,749	\$ 171,153	27.18%	\$ 553,307	\$ 144,865	26.18%
WORKERS COMPENSATION	\$ 200,000	\$ -	0.00%	\$ 200,000	\$ -	0.00%
WAGES & BENEFITS	\$ 4,133,953	\$ 301,841	7.30%	\$ 4,120,408	\$ 321,332	7.80%
EMERGENCY RESERVE	\$ -	\$ -		\$ 329,500	\$ -	0.00%
TOTAL FISCAL SERVICES	\$ 11,744,641	\$ 472,994	4.03%	\$ 12,229,414	\$ 466,197	3.81%
PUBLIC SAFETY						
EMERGENCY MGMT AGENCY	\$ 6,352	\$ -	0.00%	\$ 7,120	\$ -	0.00%
FIRE DEPARTMENT	\$ 3,541,533	\$ 259,979	7.34%	\$ 3,642,524	\$ 253,722	6.97%
POLICE DEPARTMENT	\$ 2,953,587	\$ 227,468	7.70%	\$ 2,995,571	\$ 224,144	7.48%
TOTAL PUBLIC SAFETY	\$ 6,501,472	\$ 487,446	7.50%	\$ 6,645,215	\$ 477,866	7.19%
PUBLIC WORKS						
PUBLIC WORKS DEPARTMENT	\$ 4,632,101	\$ 191,078	4.13%	\$ 4,548,651	\$ 216,610	4.76%
WATER AND SEWER	\$ 504,700	\$ -	0.00%	\$ 504,700	\$ 122,907	24.35%
TOTAL PUBLIC WORKS	\$ 5,136,801	\$ 191,078	3.72%	\$ 5,053,351	\$ 339,517	6.72%
INTERGOVERNMENTAL PROGRAMS						
AUBURN-LEWISTON AIRPORT	\$ 106,750	\$ 26,688	25.00%	\$ 96,750	\$ -	0.00%
E911 COMMUNICATION CENTER	\$ 937,589	\$ -	0.00%	\$ 950,589	\$ 237,647	25.00%
LATC-PUBLIC TRANSIT	\$ 130,000	\$ -	0.00%	\$ 130,000	\$ -	0.00%
LAEGC-ECONOMIC COUNCIL	\$ 96,429	\$ -	0.00%	\$ 106,429	\$ -	0.00%
L-A ARTS	\$ 24,267	\$ 6,067	25.00%	\$ 24,267	\$ 6,067	25.00%
COUNTY TAX	\$ 1,804,820	\$ 1,804,820	100.00%	\$ 1,969,765	\$ 1,969,765	100.00%
TAX SHARING	\$ 290,027	\$ -	0.00%	\$ 325,000	\$ -	0.00%
TOTAL INTERGOVERNMENTAL	\$ 3,389,882	\$ 1,837,574	54.21%	\$ 3,602,800	\$ 2,213,479	61.44%
EDUCATION DEPARTMENT	\$ 34,197,536	\$ 1,377,259	4.03%	\$ 34,206,840	\$ 1,244,737	3.64%
TOTAL GENERAL FUND EXPENDITURES	\$ 65,480,530	\$ 4,667,999	7.13%	\$ 66,218,673	\$ 5,119,309	7.73%

**CITY OF AUBURN, MAINE
INVESTMENT SCHEDULE
AS OF JULY 31, 2009**

INVESTMENT	FUND	ACCOUNT BALANCE	INTEREST RATE	VALUE		WEIGHTED AVG YIELD
				BOOK	MARKET	
BANKNORTH MNY MKT	GENERAL FUND	4,992,257.75	0.35%	4,992,257.75	4,992,257.75	17,472.90
BANKNORTH MNY MKT	GF-WORKERS COMP	49,046.01	0.10%	49,046.01	49,046.01	49.05
BANKNORTH MNY MKT	GF-UNEMPLOYMENT	66,179.06	0.35%	66,179.06	66,179.06	231.63
BANKNORTH CD	GF-UNEMPLOYMENT	101,045.05	2.64%	101,045.05	101,045.05	2,667.59
BANKNORTH MNY MKT	SPECIAL REVENUE	1,746,997.81	0.35%	1,746,997.81	1,746,997.81	6,114.49
BANKNORTH MNY MKT	SR-PERMIT PARKING	195,854.60	0.35%	195,854.60	195,854.60	685.49
BANKNORTH MNY MKT	SR-TIF	2,799,199.12	0.35%	2,799,199.12	2,799,199.12	9,797.20
BANKNORTH MNY MKT	CAPITAL PROJECTS	6,009,953.26	0.35%	6,009,953.26	6,009,953.26	21,034.84
BANKNORTH MNY MKT	CAPITAL PROJECTS	271,401.05	0.35%	271,401.05	271,401.05	949.90
BANKNORTH CD	CAPITAL PROJECTS	32,635.10	2.96%	32,635.10	32,635.10	966.00
BANKNORTH MNY MKT	ICE ARENA	46,968.82	0.10%	46,968.82	46,968.82	46.97
GRAND TOTAL		16,311,537.63		16,311,537.63	16,311,537.63	0.37%

**CITY OF AUBURN, MAINE
INVESTMENT SCHEDULE
COMPARISON OF JUNE 30, 2009
AND JULY 31, 2009**

INVESTMENT	FUND	JUNE 30, 2009		JULY 31, 2009		INCREASE (DECREASE)	
		VALUE		VALUE		VALUE	
		BOOK	MARKET	BOOK	MARKET	BOOK	MARKET
BANKNORTH MNY MARKET	GENERAL FUND	5,024,745.86	5,024,745.86	4,992,257.75	4,992,257.75	(32,488.11)	(32,488.11)
BANKNORTH MNY MARKET	WORKERS COMP	49,041.84	49,041.84	49,046.01	49,046.01	4.17	4.17
BANKNORTH MNY MARKET	UNEMPLOYMENT	66,159.39	66,159.39	66,179.06	66,179.06	19.67	19.67
MBIA CLASS ACCOUNT	UNEMPLOYMENT	100,891.67	100,891.67	101,045.05	101,045.05	153.38	153.38
BANKNORTH MNY MARKET	SPECIAL REVENUE	1,746,982.36	1,746,982.36	1,746,997.81	1,746,997.81	15.45	15.45
BANKNORTH MNY MARKET	PERMIT PARKING	195,796.40	195,796.40	195,854.60	195,854.60	58.20	58.20
BANKNORTH MNY MARKET	TIF	2,799,183.01	2,799,183.01	2,799,199.12	2,799,199.12	16.11	16.11
BANKNORTH MNY MARKET	CAPITAL PROJECTS	6,009,935.44	6,009,935.44	6,009,953.26	6,009,953.26	17.82	17.82
BANKNORTH MNY MARKET	CAPITAL PROJECTS	271,320.40	271,320.40	271,401.05	271,401.05	80.65	80.65
BANK OF AMERICA	CAPITAL PROJECTS	32,591.92	32,591.92	32,635.10	32,635.10	43.18	43.18
BANKNORTH MNY MARKET	ICE ARENA	46,964.83	46,964.83	46,968.82	46,968.82	3.99	3.99
GRAND TOTAL		16,343,613.12	16,343,613.12	16,311,537.63	16,311,537.63	(\$32,075.49)	(\$32,075.49)

Date 7-18-09

Reine Mynahan
City of Auburn
60 Court Street
Suite 344
Auburn, ME 04210

Dear Reine:

Please accept my resignation from the Community Development Loan Committee.

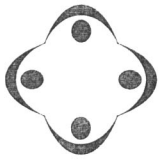
Sincerely,

Deb Cusson

Debora Cusson

Reine,

*Please let everyone know
this is work related & that
it has been a pleasure for
~~me~~ to have been apart of
the Committee. I will miss
everyone. Thanks*



SUPPORT SOLUTIONS

www.supportsolution.org
supports@supportsolution.org

124 Canal Street, Suite B
Lewiston, Maine 04240
phone: 207.795.0672
fax: 207.777.1109

56 Industrial Park Road
Saco, Maine 04072
phone: 207.294.7458
fax: 207.294.7437

Innovative Services for Individuals with Developmental & Mental Health Challenges

August 10, 2009

City Clerk
Auburn Hall
60 Court St.
Suite 150
Auburn, ME 04210

Dear Ms. Magno,

I am writing on behalf of Creative Trails, a non-profit Community Support program of Support Solutions. We provide community based services for adults with cognitive service needs. Currently we are in the process of preparing for the Special Olympic Winter Games. Besides working on our physical endurance, and training for our events we are busy trying to raise the funds to get us to the state games at Sugarloaf, although they are a few months away.

We are planning a Yard Sale fundraiser, which we hope to hold on September 3rd and 4th at our location on Minot Ave. I am writing to ask to be exempt from the permit fee that the city of Auburn charges for yard sales. All of the monies raised from the yard sale will go directly to the athletes and all the monies saved will help us in reaching our goal. We did have a previous yard sale fundraiser back in May, and we are aware that this event will put us at our limit of two yard sales per year.

Thank you for your time and consideration.

Sincerely,

Anne Poirier
Creative Trails
Auburn Program Manager
1146 Minot Ave.
Auburn, ME 04210
apoirier@supportolutions.org
783-8300
Fax 783-8311

City Council

Agenda Information Sheet

Council Meeting Date: 8/17/2009 Agenda Item No. 1

SUBJECT:

**ORDINANCE – CHAPTER 29, AMENDMENTS TO SECTIONS 7.1 SITE PLAN
REVIEW AND 7.3 SUBDIVISIONS (SECOND READING)**

INFORMATION:

The City initiated these zoning text amendments at the recommendation of the City Attorney as a result of a recent experience with litigation regarding expiration language in the zoning ordinance. The City Attorney recommended that we modify our ordinance to preserve a Planning Board approval when the approval is appealed to Superior Court and the Courts dismiss the appeal in the City's favor. A project would be on hold until the Courts decide on an appeal; however the approval period would re-start when the Court decision is issued.

The Planning Board voted unanimously to adopt the attached language.

This ordinance was discussed at the July 20th City Council Workshop.

First reading was approved at the August 3rd City Council Meeting.

STAFF COMMENTS/RECOMMENDATION:

The City Manager recommends acceptance of second reading and final passage.

REQUESTED ACTION:

Motion for acceptance of second reading and final passage.

VOTE:

City of Auburn

City Council, Auburn, Maine

Date: August 3, 2009

TITLE: ORDINANCE – CHAPTER 29, AMENDMENTS TO SECTIONS 7.1 SITE PLAN REVIEW AND 7.3 SUBDIVISIONS (2nd READING)

Be It Ordained by the Auburn City Council That Sections 7.1 and 7.3 of Chapter 29 be amended as follows:

7.1 Site Plan Review

D. Procedure

9. Approval of a site plan shall expire one year after the date of approval unless all building permits have been obtained to begin construction in accordance with the approved site plan. If a development is contested with litigation, the approval period of this section shall not commence until a final court judgment is issued or until the litigation has been dismissed with prejudice. This provision shall apply retroactively to all projects approved after January 1, 2007. Any site plan that contains a phase concept approved by the Planning Board shall not be required to obtain all building permits within the time sequence established for completion of each phase. No building permits or other permits shall be issued until all improvements are substantially completed for the preceding phase. A single one-year extension may be given upon a showing of good cause in writing by the applicant to the Planning Board not less than thirty (30) days before the expiration of approval of his existing plan. The Planning Board shall approve or disapprove the requested extension at its next regular meeting.

7.3 Subdivision

E. Final Approval and Filing

4. Improvement Completion Time

- a. All required improvements shall be completed no later than two (2) years after approval of the final plan. Should the subdivider request an extension it shall be made in writing to the Planning Board. Should the Planning Board grant an extension it shall be for a period not to exceed six (6) months. Only one extension shall be granted. Should the subdivider not complete the required improvements within

the time specified the subdivider shall be in violation of this chapter. If a development is proposed to be phased then specific requirements for each phase shall be complete prior to issuing Building Permits for that phase. If a development is contested with litigation, the two (2) year completion requirement shall not commence until a final court judgment is issued or until the litigation has been dismissed with prejudice. This provision shall apply retroactively to all projects approved after January 1, 2007.

Motion for acceptance of first reading: Ronald Potvin Seconded by: David Young

Vote: 7 Yeas

Motion for acceptance of second reading and final passage:

Seconded by:

Vote:

Action by the City Council:

Date:

Attest:

City Clerk

City of Auburn, Maine

"Maine's City of Opportunity"

Office of Planning & Permitting

Planning Board Report

To: Auburn Planning Board

From: Eric J. Cousens, City Planner

Re: City initiated zoning text amendment – Public hearing for a recommendation to the City Council on a proposal to amend the City Of Auburn Zoning Ordinance, Chapter 29, Section 7.1 Site Plan Review and Section 7.3 Subdivisions to delay the expiration period for plan approval when a Planning Board Approval is contested with litigation, pursuant to Section 8.1 of Chapter 29.

Date: July 14, 2009

I. HISTORY

Recent experience with litigation has raised a concern with the expiration language in our ordinance. The City Attorney has recommended we modify our ordinance and adopt the following language:

7.1 Site Plan Review

D. Procedure

9. Approval of a site plan shall expire one year after the date of approval unless all building permits have been obtained to begin construction in accordance with the approved site plan. If a development is contested with litigation, the approval period of this section shall not commence until a final court judgment is issued or until the litigation has been dismissed with prejudice. This provision shall apply retroactively to all projects approved after April 9, 2007. Any site plan that contains a phase concept approved by the Planning Board shall not be required to obtain all building permits within the time sequence established for completion of each phase. No building permits or other permits shall be issued until all improvements are substantially completed for the preceding phase. A single one-year extension may be given upon a showing of good cause in writing by the applicant to the Planning Board not less than thirty (30) days before the expiration of approval of his existing plan. The Planning Board shall approve or disapprove the requested extension at its next regular meeting.

7.3 Subdivision

E. Final Approval and Filing

4. Improvement Completion Time

- a. All required improvements shall be completed no later than two (2) years after approval of the final plan. Should the subdivider request an extension it shall be made in writing to the Planning Board. Should the Planning Board grant an extension it shall be for a period not to exceed six (6) months. Only one extension shall be granted. Should the subdivider not complete the required improvements within the time specified the subdivider shall be in violation of this chapter. If a development is proposed to be phased then specific requirements for each phase shall be complete prior to issuing Building Permits for that phase. If a development is contested with litigation, the two (2) year completion requirement shall not commence until a final court judgment is issued or until the litigation has been dismissed with prejudice. This provision shall apply retroactively to all projects approved after April 9, 2007.

III. RECOMMENDATION:

Staff supports the adoption of the proposed language and recommends that the Planning Board forward a favorable recommendation to the City Council to amend the City Of Auburn Zoning Ordinance, Chapter 29, Section 7.1 Site Plan Review and Section 7.3 Subdivisions to delay the expiration period for plan approval when a Planning Board Approval is contested with litigation as shown above, pursuant to Section 8.1 of Chapter 29.

Eric Cousens
City Planner

City Council

Agenda Information Sheet

Council Meeting Date: 8/17/2009

Agenda Item No. 2

SUBJECT:

**RESOLVE – AUTHORIZING TAX ASSESSOR TO ABATE TAXES
RE: LITTLEFIELD HYDRO COMPANY (OFF LITTLEFIELD RD)**

INFORMATION:

Since 1990 the City has incorrectly assessed properties to Littlefield Hydro Company, c/o Ridgewood Renewal Power. Apparently, ESI Hydropower Company conveyed the property to Littlefield Hydro Company, though the conveyance was subject to the right of reversion detailed in a separate agreement between the companies. The City never received these documents, that is why the error existed for so long. The City Council discussed this issue during the August 3rd Workshop.

STAFF COMMENTS/RECOMMENDATION:

The City Manager recommends passage of the resolve.

REQUESTED ACTION:

Motion for passage of the resolve.

VOTE:

City of Auburn

City Council, Auburn, Maine

Date: July 6, 2009

TITLE: RESOLVE – AUTHORIZING TAX ASSESSOR TO ABATE TAXES
RE: LITTLEFIELD HYDRO COMPANY (OFF
LITTLEFIELD ROAD)

Be It Resolved by the Auburn City Council that, the Tax Assessor is hereby authorized to abate Real Estate located at Littlefield Hydro Company, (off Littlefield Road) as follows:

Tax Year 2006-2007 – Abated Value - \$8,700 x .02435 = \$211.85

Tax Year 2007-2008 – Abated Value - \$8,700 x .01928 = \$167.74

Motion for acceptance:

Seconded by:

Vote:

Action by the City Council:

Date:

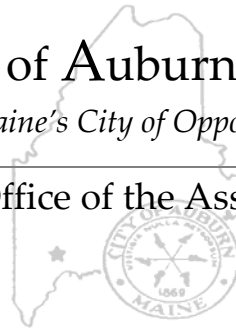
Attest:

City Clerk

City of Auburn, Maine

"Maine's City of Opportunity"

Office of the Assessor



To: City Manager, Glenn Aho

From: Cheryl Dubois, City Assessor

Ref: Littlefield Hydro Company – Abatements

Date: 7/22/2009

I am recommending the City Council approval of the property tax abatement to the Littlefield Hydro Company for the tax years ending 2007 and 2008.

An attorney from Pierce Attwood brought to our attention that a tax error has existed since 1990, and therefore requested an abatement for all years. State Statutes are specific to the timeline for abatements and the City Council may only grant tax abatements after one year, but within three years from the date of the commitment to correct illegality, error or irregularity in assessment. I have already granted an abatement for the tax year ending 2009, and am now requesting the City Council abate the second and third years worth of taxes. The total amount of abatement is \$379.59, which is detailed further in the Abatement Chart to the right.

Abatement Chart		
	2006/2007 ASSESSMENT	2007/2008 ASSESSMENT
PID 179-022	\$ 1,700	\$ 7,000
PID 179-027	\$ 7,000	\$ 1,700
	\$ 8,700	\$ 8,700
Tax Rate	0.02435	0.01928
Taxes	\$ 211.85	\$ 167.74

The Littlefield Hydro Company property is located off the Littlefield Road and is a non-power generating dam that is approximately .29 acres in size.

Since 1990, the City has incorrectly assessed the properties to Littlefield Hydro Company, c/o Ridgewood Renewable Power. Apparently, ESI Hydropower Company conveyed the property to Littlefield Hydro Company, though the conveyance was subject to the right of reversion detailed in a separate agreement between the companies. The City never received these documents, that is why the error existed for so long.

City Council

Agenda Information Sheet

Council Meeting Date: 8/17/09

Agenda Item No. 3

SUBJECT:

**RESOLVES – DETERMINATION OF A PRESUMPTION OF ABANDONMENT
FOR PORTIONS OF BROWNS CROSSING ROAD, ELMWOOD ROAD
& SOPERS MILL ROAD**

INFORMATION:

Portions of Browns Crossing Road, Elmwood Road, and Sopers Mill Road, as described in the attached resolves, have not been kept passable for motor vehicles at public expense for a period of 30 or more consecutive years. By operation of 23 M.R.S.A. § 3028, these portions of Browns Crossing Road, Elmwood Road and Sopers Mill Road are presumed abandoned. The Maine Municipal Association, in it's "Municipal Roads Manual," recommends that after research and a public hearing, a notice of the determination of the presumption of abandonment be recorded at the Registry of Deeds.

STAFF COMMENTS/RECOMMENDATION:

The City Manager recommends approval of these resolves.

REQUESTED ACTION:

Motion for passage of these resolves.

VOTE:

City of Auburn, Maine

"Maine's City of Opportunity"

Community Services Department

Engineering Division

"Provide Innovative Ideas and Responsible Results"

MEMORANDUM

To: Glenn Aho, City Manager

From: Gary Johnson, Assistant City Engineer

Date: August 13, 2009

Re: Determination of a Presumption of Abandonment – Range Rd and portions of Browns Crossing Rd, Elmwood Rd, Ryans Way, and Sopers Mill Rd

A municipality is responsible for keeping its roads "in repair so as to be safe and convenient for travelers with motor vehicles" (23 M.R.S. A. §3651) and to keep such ways passable if they become "blocked or encumbered with snow" (23 M.R.S. A. §3201). We can be relieved of that obligation on roads that have not been kept passable for passage by motor vehicles at public expense by the operation of 23 M.R.S.A. § 3028. Under this law, a town way that has not been kept passable for motor vehicles at public expense for a period of 30 or more consecutive years is *presumed* abandoned. The following table provides a listing of the portions of roads I have researched, and found to meet this criterion.

Road	Status	Comments
Elmwood Road		
from 1600' east of Oak Hill Rd easterly 2675 feet, more or less, to 200 feet westerly of the North River Road	Presumed Abandoned as of February 1970; a public easement would remain	An abutter is concerned to what extent another abutter will be able to improve the road.
Sopers Mill Road		
from a point 2035 feet southeasterly of the Hobart Road, southeasterly 1950 feet, more or less, to the Durham/Auburn town line.	Presumed Abandoned as of October 1994; a public easement would remain	Minor culvert repair done in 1990's to provide access for timber harvesting. Considered sporadic not affecting 30 years of non-maintenance.
Browns Crossing Road		
from the Trapp Road, southeasterly 5800 feet, more or less, to the Jordan School Road.	Presumed Abandoned as of November 1985; a public easement would remain	Concern regarding access to properties. An abutter has recorded a quit claim deed from a previous owner conveying interest in the road.
Ryans Way		
From a point 350 feet northeasterly of the North Auburn Road, northeasterly 2750 feet, more or less, to the discontinued portion of the Whitman Spring Road.	Presumed Abandoned as of 1930; status of public easement uncertain; MMA Roads Manual indicates none would be retained.	Road was not being used in 1947; in 1960 reported no one of the present generation could recall road being used.
Range Road		
From the Foster Road northwesterly 4650 more or less, to the Auburn/Poland town line.	Maine Supreme Court opinion that City of Auburn has no interest in the Road.	No need to make a determination of a presumption of abandonment. Case was based on belief the road was never accepted as a town way. Research indicates may have been accepted by the Town of Poland. Not yet verified.

Once a determination of presumption of abandonment has been made, these roads are relegated to the same status as they would have had following discontinuance under 23 M.R.S. A. §3026. There are differing opinions on what that means. It is agreed that a period of 30 consecutive years of non-maintenance ending after September 3, 1965 results in a public easement remaining. However the Maine Municipal Association in their Municipal Roads Manual indicates that a public easement would not remain if the 30 years on non-maintenance was prior to September 3, 1965. There are attorneys who disagree. This would have an impact on the status of Ryans Way where evidence indicates the abandonment would be prior to September 3, 1965. Resolution of this issue would need to be determined through a declaratory judgment in Superior Court.

Regarding the concern about the improving and/or maintenance of a road presumed abandoned. The roads that are relegated to the status of a public easement can be improved and maintained by private individuals. The City has been relieved of its maintenance liability and would not be obligated to provide maintenance. There are court cases that have upheld a private individual's right to maintain a public easement. However, in the event repairs are performed improperly and cause injury, the person who made the repairs to the public easement, or contracted for the repairs, may be personally liable.

City of Auburn, Maine

"Maine's City of Opportunity"

Community Services Department

Engineering Division

"Provide Innovative Ideas and Responsible Results"

July 31, 2009

Dear Auburn Property Owner:

The Auburn City Council will hold a public hearing on August 17, 2009, at 7:00 PM, in the city council chambers at Auburn Hall, 60 Court St. The purpose of this hearing is to make a determination whether sections of certain roads within the City of Auburn are presumed abandoned. You are being notified of this hearing because City records indicate that you are an abutting property owner to one of the sections of road being considered.

Browns Crossing Road – from the Trapp Road, southeasterly 5800 feet, more or less, to the Jordan School Road.

Elmwood Road - from a point 1600 feet east of Oak Hill Road, easterly 2675 feet, more or less, to a point 200 feet westerly of the North River Road.

Range Road – from the Foster Road, northwesterly 4650 feet, more or less, to the Poland/Auburn town line.

Ryans Way – from a point 350 feet northeasterly of the North Auburn Road, northeasterly 2750 feet, more or less, to the discontinued portion of the Whitman Spring Road.

Sopers Mill Road – from a point 2035 feet southeasterly of the Hobart Road, southeasterly 1950 feet, more or less, to the Durham/Auburn town line.

A municipality may be relieved of the obligation to maintain a town way by operation of 23 M.R.S.A. § 3028 (copy enclosed). Under this law, a town way which has not been kept passable for motor vehicles at public expense for a period of 30 or more consecutive years is presumed abandoned. Our research indicates that the above described sections of road meet these criteria.

If you have any questions regarding this matter, or information regarding the maintenance history of the road, please contact me by phone at (207) 333-6601, Ext 1138 or e-mail at gjohnson@ci.auburn.me.us.

Sincerely,

Gary Johnson, PLS
Assistant City Engineer

Enc: (2)

Owner 1	Owner 2	Address	Town	State	Zip
Linke Farm LLC		2118 Hill Town Pike	Perkasie	PA	##### Browns Crossing Rd
Shirley A. Beaumier		641 Gray Road	Goham	ME	04038 Browns Crossing Rd
Maurice Y. Beaulieu	Suzanne M. Beaulieu	17 McKinley Dr	Lewiston	ME	04240 Browns Crossing Rd
Peter G. Moore	Mary D. Moore	15 Colonial Vlg	Falmouth	ME	04105 Browns Crossing Rd
William E. Mercier	Joyce N. Mercier	1573 Jordan School Rd	Auburn	ME	04210 Browns Crossing Rd
Althea L. Blackmore		1030 North River Rd	Auburn	ME	04210 Elmwood Rd
Terry M. Dailey		1011 North River Rd	Auburn	ME	04210 Elmwood Rd
James Pittman		1097 Center St	Auburn	ME	04210 Elmwood Rd
Christopher F. Lewis		800 North River Rd	Auburn	ME	04210 Elmwood Rd
Merle F. Davis, Jr.	Arlana J. Davis	109 Elmwood Rd	Auburn	ME	04210 Elmwood Rd
John T. Jenkins		P.O. Box 7205	Lewiston	ME	04243 Ryans Way
Joan Prince Hutchinson	John F. Hutchinson	P.O. Box 23584	Silverthorne	CO	80498 Ryans Way
Daniel D. Gibbs		P.O. Box 391	Bethel	ME	04217 Ryans Way
Janet M. Joseph Trust		135 North Auburn Rd	Auburn	ME	04210 Ryans Way
Stacey L. Bilodeau		P.O. Box 1493	Auburn	ME	04211 Ryans Way
Lake Auburn Watershed	Protection Commission	268 Court St	Auburn	ME	04210 Ryans Way
James R. McKay	Sally A. Warren	829 Bald Hill Rd	New Glouc	ME	04260 Range Rd
Auburn Business Development Corp		P.O. Box 1188	Lewiston	ME	04243 Range Rd
Leo G. Binette	Carolyn Binette	P.O. Box 1803	Auburn	ME	04211 Range Rd
Sheldon D. Leppala		P.O. Box 374	Brunswick	ME	04011 Range Rd
Heirs of Corrine Berwick		185 Foster Rd	Auburn	ME	04210 Range Rd
Cascades Auburn Fiber, Inc.		586 Lewiston Junction Rd	Auburn	ME	04210 Range Rd
Kathleen Shaw		1200 Sopers Mill Rd	Auburn	ME	04210 Sopers Mill Rd
Rene R. Bilodeau	Irene M. Bilodeau	1177 Sopers Mill Rd	Auburn	ME	04210 Sopers Mill Rd
Patricia E. Schwartz		P.O. Box 843	Rye	NH	03870 Sopers Mill Rd

City of Auburn

City Council, Auburn, Maine

Date: August 17, 2009

**TITLE: RESOLVE – DETERMINATION OF A PRESUMPTION OF ABANDONMENT
FOR A PORTION OF BROWNS CROSSING ROAD**

Be It Resolved by the Auburn City Council that, having met in public session and after public hearing and deliberation, we have determined that a portion of a road, formerly known as the Browns Crossing Road, from the Trapp Road southeasterly five thousand eight hundred (5800) feet, more or less, to the Jordan School Road is presumed abandoned pursuant to 23 M.R.S.A. § 3028.

This determination is based upon investigation and report by city staff indicating that said portion of Browns Crossing Road has not been kept passable for the use of motor vehicles at City expense for a period of at least 30 consecutive years commencing November 1955.

Motion for acceptance:

Seconded by:

Vote:

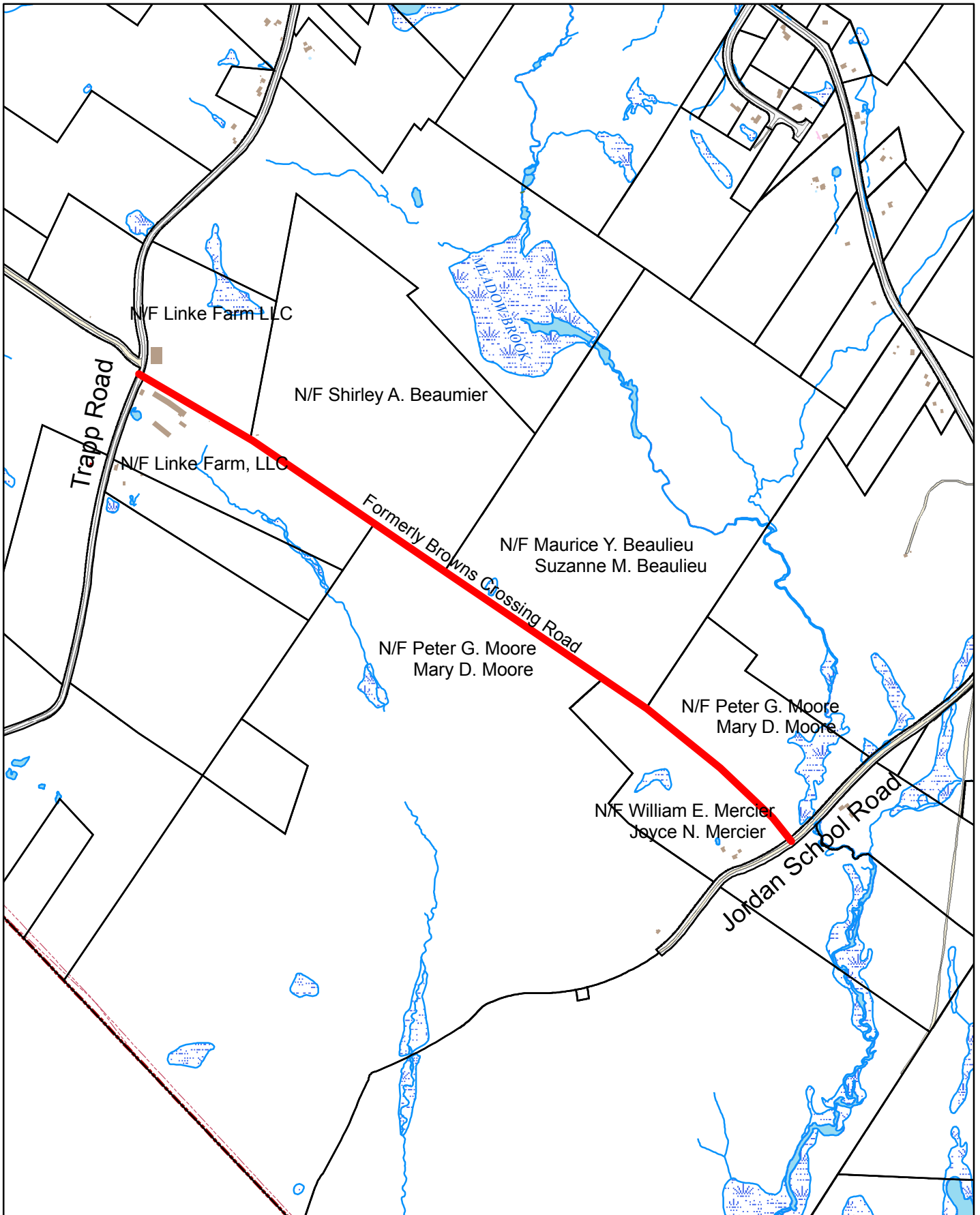
Action by the City Council:

DATE:

ATTEST:

CITY CLERK

Browns Crossing Road



Section Presumed Abandoned

City of Auburn

City Council, Auburn, Maine

Date: August 17, 2009

**TITLE: RESOLVE – DETERMINATION OF A PRESUMPTION OF ABANDONMENT
FOR A PORTION OF ELMWOOD ROAD**

Be It Resolved by the Auburn City Council that, having met in public session and after public hearing and deliberation, we have determined that Elmwood Road from one thousand six hundred (1600) feet east of Oak Hill Road, easterly two thousand six hundred seventy five (2675) feet, more or less, to two hundred (200) feet westerly of North River Road, is presumed abandoned pursuant to 23 M.R.S.A. § 3028.

This determination is based upon investigation and report by city staff indicating that said portion of Elmwood Road has not been kept passable for the use of motor vehicles at City expense for a period of at least 30 consecutive years commencing February 1940.

Motion for acceptance:

Seconded by:

Vote:

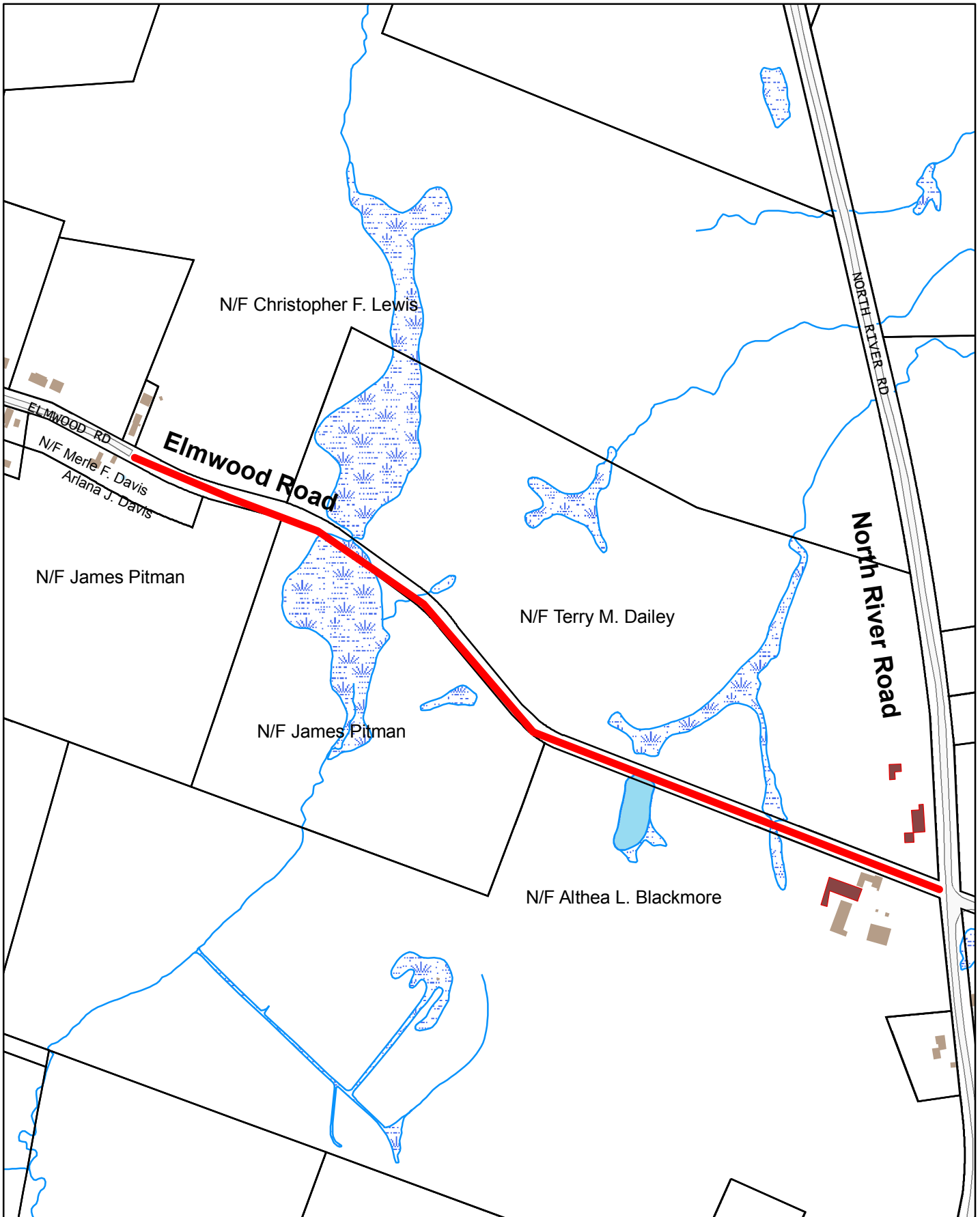
Action by the City Council:

DATE:

ATTEST:

CITY CLERK

Elmwood Road



Section Presumed Abandoned

City of Auburn

City Council, Auburn, Maine

Date: August 17, 2009

**TITLE: RESOLVE – DETERMINATION OF A PRESUMPTION OF ABANDONMENT
FOR A PORTION OF SOPERS MILL ROAD**

Be It Resolved by the Auburn City Council that, having met in public session and after public hearing and deliberation, we have determined that a portion of a road, known as the Sopers Mill Road, from two thousand thirty five feet southeasterly of the Hobart Road, southeasterly one thousand nine hundred and fifty (1950) feet, more or less, to the Auburn/Durham Municipal Boundary is presumed abandoned pursuant to 23 M.R.S.A. § 3028.

This determination is based upon investigation and report by city staff indicating that said portion of Sopers Mill Road has not been kept passable for the use of motor vehicles at City expense for a period of at least 30 consecutive years commencing October 1964.

Motion for acceptance:

Seconded by:

Vote:

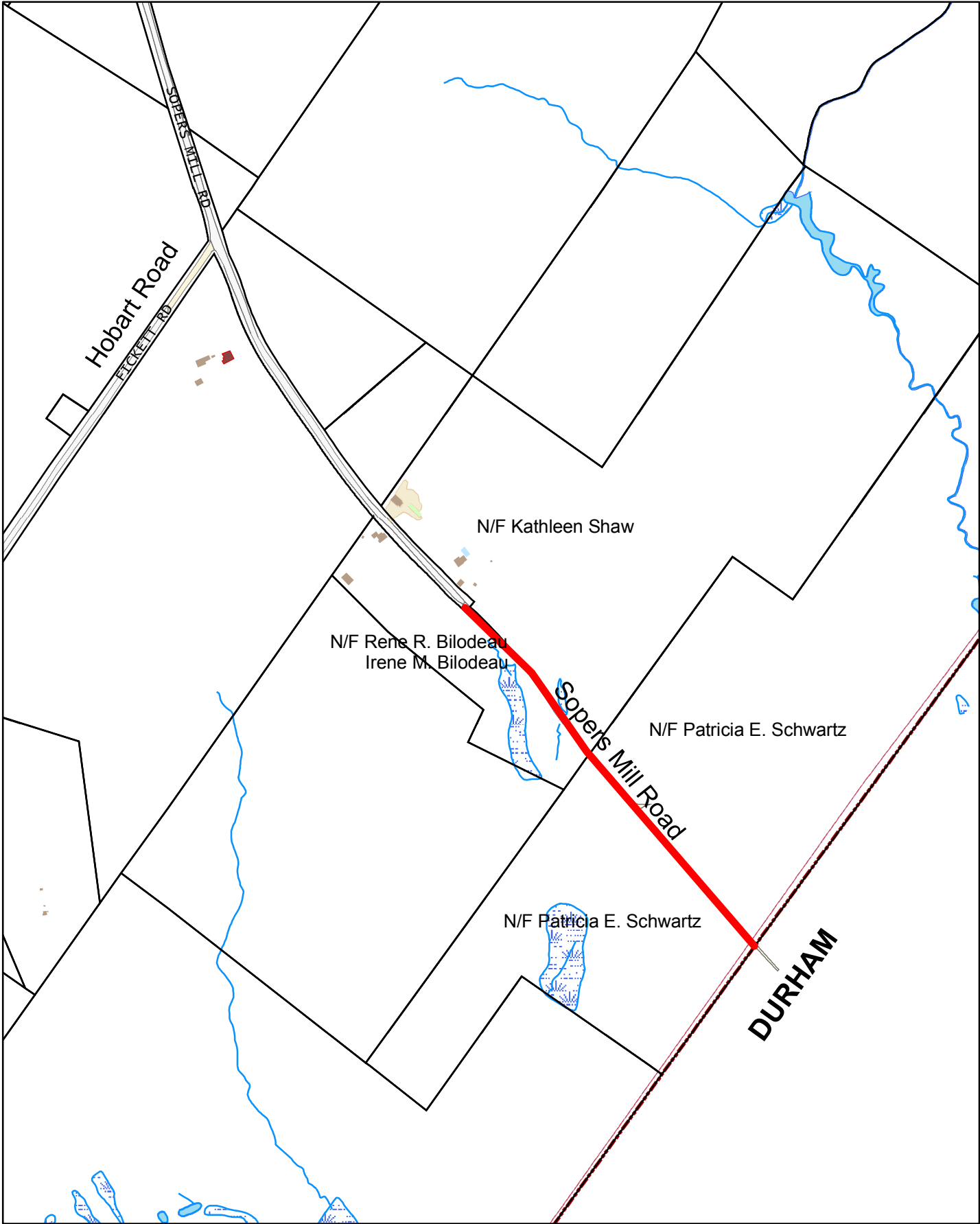
Action by the City Council:

DATE:

ATTEST:

CITY CLERK

Sopers Mill Road



Section Presumed Abandoned

City Council

Agenda Information Sheet

Council Meeting Date: 8/17/09

Agenda Item No. 3

SUBJECT:

**RESOLVE – DETERMINATION OF A PRESUMPTION OF ABANDONMENT
OF THE RANGE ROAD**

INFORMATION:

The Range Road, as described in the resolve, has not been kept passable for motor vehicles at public expense for a period of 30 or more consecutive years. By operation of 23 M.R.S.A. § 3028, the Range Road is presumed abandoned. However, a case involving the Range Road was part of a Maine Supreme Court opinion in which the Law Court affirmed a Superior Court declaratory judgment that the Range Road was never a town or public way. At the time of the case there was no evidence that the City of Auburn held any interest in the road and therefore any action to abandon the road had no effect. While further investigation indicates the City may have inherited an interest in the road through the annexation of the Town of Danville, which had annexed this area from the Town of Poland, the actual history is unknown at this time. The decision in this case relieves the City of its maintenance obligation making the passage of the resolve unnecessary.

STAFF COMMENTS/RECOMMENDATION:

The City Manager recommends this resolve *not be approved*.

The purpose of placing this motion on the agenda is to create a record that at least states what was reviewed at this time; in other words, as a measure to assist future researchers. We believe the owner of the land will be forthcoming with a petition of discontinuance.

REQUESTED ACTION:

Motion for passage of the resolve and vote in the negative.

VOTE:

City of Auburn

City Council, Auburn, Maine

Date: August 17, 2009

**TITLE: RESOLVE – DETERMINATION OF A PRESUMPTION OF ABANDONMENT
OF THE RANGE ROAD**

Be It Resolved by the Auburn City Council that, having met in public session and after public hearing and deliberation, we have determined that a road known as the Range Road from the Foster Road, northwesterly four thousand six hundred fifty (4650) feet, more or less to the Auburn/Poland Municipal Boundary, is presumed abandoned pursuant to 23 M.R.S.A. § 3028.

This determination is based upon investigation and report by city staff indicating that said Range Road has not been kept passable for the use of motor vehicles at City expense for a period of at least 30 consecutive years.

Motion for acceptance:

Seconded by:

Vote:

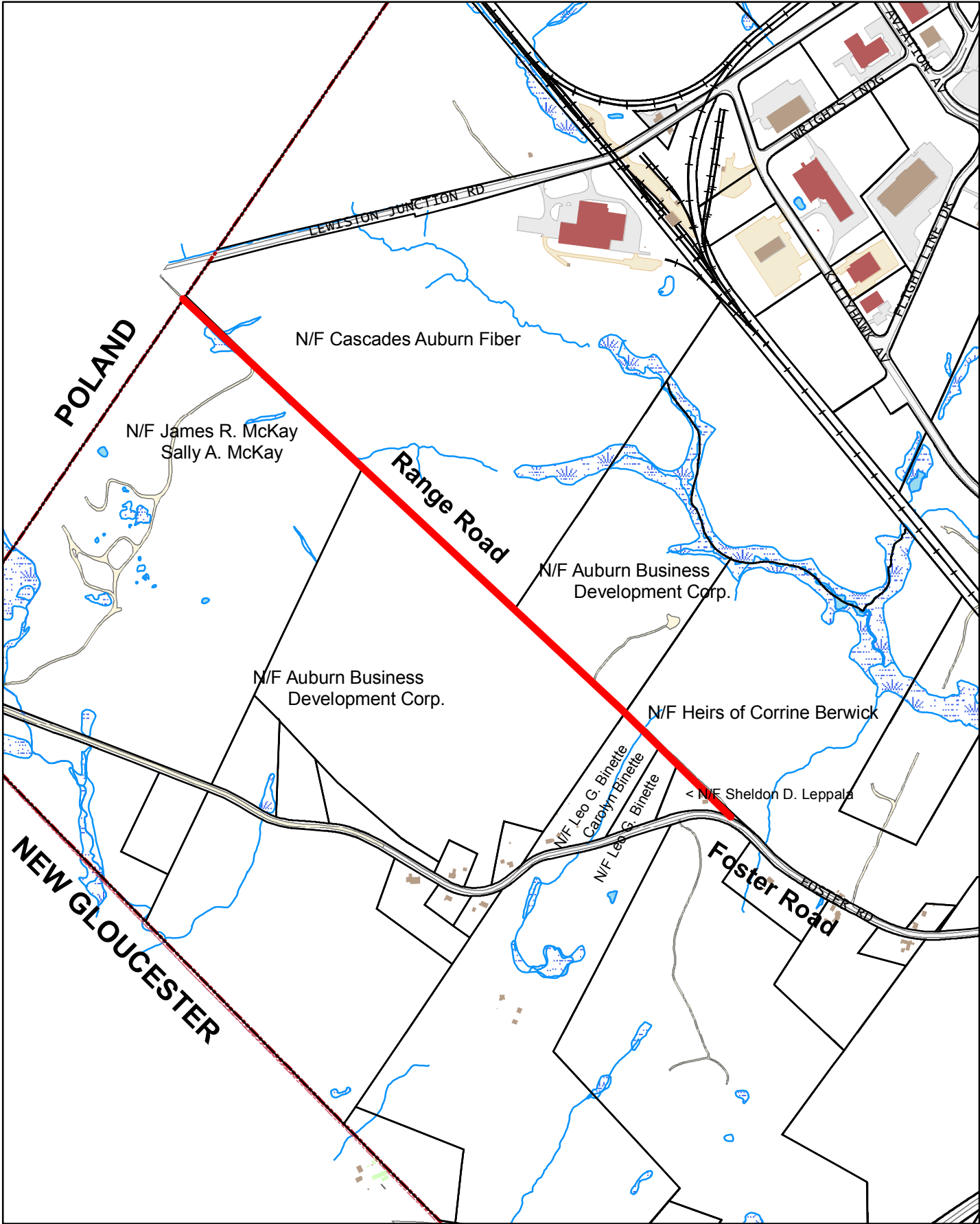
Action by the City Council:

DATE:

ATTEST:

CITY CLERK

Range Road



Section Presumed Abandoned

City Council

Agenda Information Sheet

Council Meeting Date: 8/17/09

Agenda Item No. 3

SUBJECT:

**RESOLVE – DETERMINATION OF A PRESUMPTION OF ABANDONMENT
OF THE RYANS WAY**

INFORMATION:

Ryans Way, as described in the resolve, has not been kept passable for motor vehicles at public expense for a period of 30 or more consecutive years. By operation of 23 M.R.S.A. § 3028, Ryans Way is presumed abandoned. The City of Auburn discontinued the road in 1960 in an attempt to clarify the status. However, that discontinuance was ineffective because the City never filed a certificate of the discontinuance at the Registry of Deeds. At issue is whether a public easement would remain because the 30 years of non-maintenance occurred prior to September 3, 1965. Maine Municipal Association's Municipal Roads Manual indicates there would be no public easement. There are attorneys who disagree. This action will not result in a resolution to that issue. Only through a discontinuance or a declaratory judgment in Superior Court will do so.

STAFF COMMENTS/RECOMMENDATION:

The City Manager recommends this resolve be tabled.

REQUESTED ACTION:

Motion to pass table this resolve.

VOTE:

City of Auburn

City Council, Auburn, Maine

Date: August 17, 2009

**TITLE: RESOLVE – DETERMINATION OF A PRESUMPTION OF ABANDONMENT
FOR A PORTION OF RYANS WAY**

Be It Resolved by the Auburn City Council that, having met in public session and after public hearing and deliberation, we have determined that a portion of a road known as Ryans Way from four hundred twenty (420) feet northeasterly of the North Auburn Road, northeasterly two thousand eight hundred (2800) feet, more or less, to the discontinued portion of the Whitman Spring Road, is presumed abandoned pursuant to 23 M.R.S.A. § 3028.

This determination is based upon investigation and report by city staff indicating that said portion of Ryans Way has not been kept passable for the use of motor vehicles at City expense for a period of at least 30 consecutive years commencing prior to 1930.

Motion for acceptance:

Seconded by:

Vote:

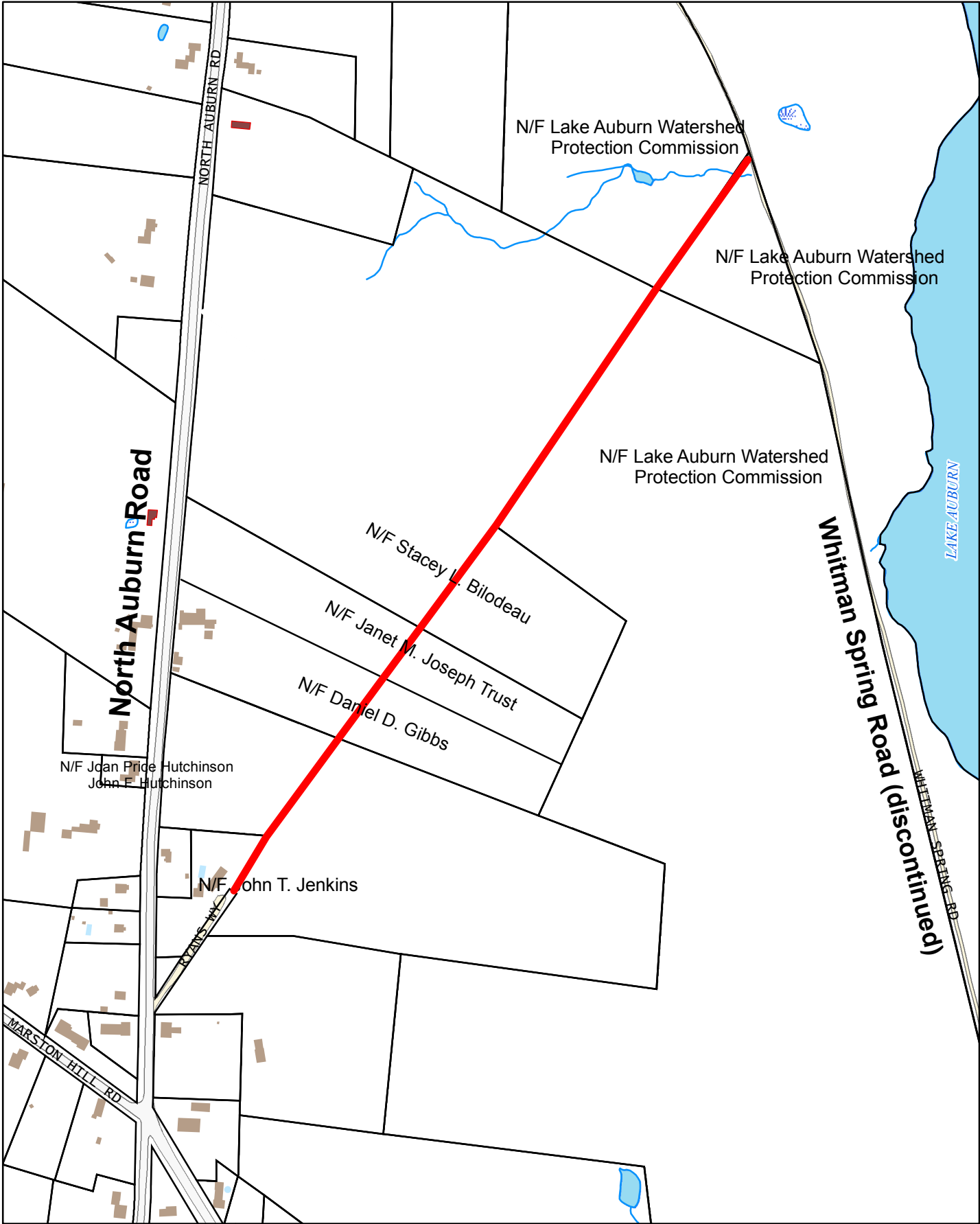
Action by the City Council:

DATE:

ATTEST:

CITY CLERK

Ryans Way



Section Presumed Abandoned

City Council

Agenda Information Sheet

Council Meeting Date: 8/17/2009 Agenda Item No. 4

SUBJECT:

**ORDINANCE – CHAPTER 20, ARTICLE 1 – INTERNATIONAL BUILDING
CODE AND ARTICLE 2 – INTERNATIONAL RESIDENTIAL CODE
(1ST READING)**

INFORMATION:

Staff is proposing the adoption of the 2003 edition of the International Building Code (IBC) and International Residential Code (IRC). Currently the City is operating under the 1999 edition of the Building Officials and Code Administrators (BOCA) Building Code. The State of Maine and the City of Lewiston are both currently operating under the 2003 IBC & IRC and Staff is recommending that we adopt the same code for a variety of reasons. Adopting the 2003 IRC & IBC will provided the requested consistency for the building community, the new code incorporates construction materials and practices that were not around when we adopted the 1999 BOCA code, and as the 2003 IBC & IRC are more user friendly for Staff and our clients.

Staff discussed this ordinance at the August 3rd City Council Workshop

STAFF COMMENTS/RECOMMENDATION:

The City Manager recommends approval of first reading.

REQUESTED ACTION:

Motion for acceptance of first reading.

VOTE:

City of Auburn

City Council, Auburn, Maine

Date: August 17, 2009

**TITLE: ORDINANCE – CHAPTER 20, ARTICLE 1 – INTERNATIONAL
BUILDING CODE AND ARTICLE 2 – INTERNATIONAL
RESIDENTIAL CODE**

Be It Ordained by the Auburn City Council that the current wording in Chapter 20 be deleted in its entirety and substituting therefore the attached Article 1 – International Building Code and Article 2 – International Residential Code.

Motion for acceptance of first reading:

Seconded by:

Vote:

Motion for acceptance of second reading and final passage:

Seconded by:

Vote:

Action by the City Council:

Date:

Attest:

City Clerk

Chapter 20
Article I. International Building Code

Sec. 1.1 Adoption of building code.

There is hereby adopted by the city for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition and insurance coverage, use and occupancy, equipment, location and maintenance of building and structures, including permits and penalties, that certain building code known as the 2003 International Building Code, save and except such portions as are in this article deleted, modified or amended. No fewer than one (1) copy of such code have been and now are filed in the office of the city clerk and such copies are hereby adopted and incorporated as fully as if set out at length in this article.

Sec. 1.2 Amendments to the building code.

The building code adopted in Chapter 20 is amended and changed as follows:

Chapter 1 is repealed in its entirety.

Chapter 1 ADMINISTRATION. is enacted to read as follows:

Chapter 1
ADMINISTRATION

SECTION 101
GENERAL

101.1 Title. These regulations shall be known as the *Building Code* of the City of AUBURN, Maine, hereinafter referred to as “this code.”

101.2 Scope. The provisions of the code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use, and occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exceptions:

1. Detached one-and two-family dwellings and attached single-family dwellings (town houses) not more than three stories above grade in height with a separate means of egress and their accessory structures shall comply with the *International Residential Code*.

101.2.1 Appendices. Provision in the appendices shall not apply unless specifically adopted.

101.3 Intent. The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities,

stability, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

101.4 Referenced codes. The other codes listed in Section 101.4.1 through 101.4.7 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

101.4.1 Electrical. The provisions of the Chapter 9, Article I. Section 1.4 NATIONAL ELECTRICAL CODE of the Code of Ordinances of the City of AUBURN shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto. All references to the ICC *Electrical Code* are hereby deleted in favor of the applicable section(s) of the *National Electrical Code* as adopted.

101.4.2 Gas. The provisions of Chapter 21, FIRE CODE of the aforementioned Code of Ordinances shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this code. All references to the *International Gas Code* are hereby deleted in favor of the applicable section(s) of the *National Fire Codes* as adopted.

101.4.3 Mechanical. The provisions of the *International Mechanical Code* shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

101.4.4 Plumbing. The provisions of Chapter 20A, Article 7. MINIMUM STANDARD FOR PLUMBING of the aforementioned Code of Ordinances shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewerage system. The provisions of the *Maine Subsurface Waste Water Disposal Rules* shall apply to private sewage disposal systems. All references to the *International Plumbing Code* and *International Private Sewage Disposal Code* are hereby deleted in favor of the applicable section(s) of these regulations.

101.4.5 Property Maintenance. is hereby deleted and reserved.

101.4.6 Fire prevention. The provisions of Chapter 21, FIRE CODE of the aforementioned Code of Ordinances shall apply to matters affecting or related to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire hazards in the structure or on the premises from occupancy or operation. All references to the *International Fire Code* are hereby deleted in favor of the applicable section(s) of the *National Fire Codes* as adopted.

101.4.7 Energy. The provisions of the *Maine Guide to Energy Efficient Construction: A Manual of Accepted Practice* (third edition) shall apply to all habitable residential buildings and structures. The provisions of ASHRAE 90B shall be applicable to all occupiable nonresidential

buildings and structures. All references to the *International Energy Conservation Code* are hereby deleted.

SECTION 102 **APPLICABILITY**

102.1 General. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, shall be applicable.

102.2 Other Laws. The provisions of this code shall not be deemed to nullify any provisions of local, state and federal law.

102.3 Application of references. References to chapter or section numbers, or to provisions specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

102.4 Referenced codes and standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to be prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

102.5 Partial invalidity. In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts of the provisions.

102.6 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the currently adopted *Property Maintenance Code*, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

SECTION 103 **DEPARTMENT OF CODE ENFORCEMENT**

103.1 Building official. The code enforcement division is hereby charged with the administration and enforcement of this code. The director of code enforcement and the building inspector, acting under the direction of the director of code enforcement, shall be designated as the municipal building officials for the purpose of administration and enforcement of the code.

103.2 Qualifications of building official. To be eligible for appointment, the candidate for the position shall have had experience as an architect, structural engineer, building inspector, foreman or superintendent of building construction. He shall be in good health, physically capable of making the necessary examinations and inspections. He shall not have any interest whatever, directly or indirectly, in the sale or manufacture of any material, process, or device entering into or used in or in connection with building construction, alteration, removal and demolition.

103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the director of code enforcement shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official.

SECTION 104 **DUTIES AND POWERS OF BUILDING OFFICIALS**

104.1 General. The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the applications of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

104.2 Applications and permits. The building officials shall receive applications, review construction documents and issue permits for the erection, and alteration, demolition and moving of building and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

104.3 Notices and orders. The building official shall issue all necessary notices and orders to ensure compliance with this code.

104.4 Inspections. The building official shall make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

104.5 Identification. The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

104.6 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the building official shall first make reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by the law to secure entry.

104.7 Department records. The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and

orders issued. Such records shall be retained in the official records for the period required for retention of public records.

104.8 Liability. The building official or other employee or appointee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

104.9 Approved materials and equipment. Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

104.9.1 Used materials and equipment. The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

104.10 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or the owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code at that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

104.11 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

104.11.1 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

104.11.2 Test. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the

jurisdiction. Test methods shall be as specified or by other recognized and accepted test standards. In the absence of recognized and accepted test methods, the building official shall approve the test procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

SECTION 105 **PERMITS**

105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permits.

105.2 Work exempt from permit. Exemptions from permit requirements for this code shall not be deemed to grant authorization for any work to be done in any manner in violations of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

1. Repairs, in accordance with Section 105.2.2.
2. Re roofing, where no structural repairs or improvements are involved.
3. Siding of existing buildings or structures, where no structural repairs or improvements are involved.
4. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
5. Temporary motion picture, television and theater stage sets and scenery.
6. Prefabricated swimming pools, accessory to a Groups R-2 and R-3 occupancies, which have less than 36 inches (915 mm) of water depth capacity and are installed entirely above ground.
7. Shade cloth structures constructed for nursery or agricultural purposes and not including service systems.
8. Swings and other playground equipment accessory to one- and two-family dwellings.
9. Window awnings supported by an exterior wall of Group R-3, as applicable in Section 101.2, and Group U occupancies.
10. Movable cases, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

105.2.1 Emergency repairs. When equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.

105.2.2 Repairs. Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements.

105.3 Application for permit. To obtain a permit, the applicant shall first file an application thereof in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in Section 106.3.
5. State the valuation of the proposed work.
6. Be signed by the applicant, or the applicant's authorized agent.
7. Give such other data and information as required by the building official.

105.3.1 Action on application. The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building shall reject such application in writing, stating the reasons therefore. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefore as soon as practicable.

105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

105.4 Validity of permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

105.6 Suspension or revocation. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the

basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

105.7 Placement of permit. The building permit or copy shall be kept on the site of the work until the completion of the project.

SECTION 106 **CONSTRUCTION DOCUMENTS**

106.1 Submittal documents. Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this code.

106.1.1 Information on construction documents. Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the building official.

106.1.1.1 Fire protection system shop drawings. Shop drawings for the fire protection system(s) shall be submitted to indicate conformance with this code and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9.

106.1.2 Means of egress. The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress in compliance with the provisions of this code. In other than occupancies in Groups R-2 and R-3 as applicable in Section 101.2 and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

106.1.3 Exterior wall envelope. Construction documents for all building shall describe the exterior wall envelope in sufficient detail to determine compliance with this code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane, and details around openings. Construction documents shall include manufacturing installation instructions that provide supporting documentation that the proposed penetration and opening details described in

the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which was tested, where applicable, as well as the test procedure used.

106.2 Site plan. The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades, as applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

106.3 Examination of documents. The building official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

106.3.1 Approval of construction documents. When the building official issues a permit, The construction documents shall be approved, in writing or by stamp, as “Reviewed for Code Compliance.” One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or his authorized representative.

106.3.2 Previous approvals. The code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction or which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

106.3.3 Phased approval. The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided the adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder’s own risk with the building operation and without assurance that a permit for the entire structure will be granted.

106.3.4 Design professional in responsible charge.

106.3.4.1 General. When it is required that documents be prepared by a registered design professional, the building official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible

charge. The building official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

Where structural observation is required by Section 1709, the inspection program shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is occur. See also duties specified in Section 1704.

106.3.4.2 Deferred submittals. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period.

Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the building official.

Documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The deferred submittal items shall not be installed until their design and submittal documents have been approved by the building official.

106.4 Amended construction documents. Work shall be installed in accordance with the reviewed construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

106.5 Retention of construction documents. One set of approved construction documents shall be retained by the building official for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws.

SECTION 107

TEMPORARY STRUCTURES AND USES

107.1 General. The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official is authorized to grant extensions for demonstrated cause.

107.2 Conformance. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

107.3 Temporary power. The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the ICC *Electrical Code*.

107.4 Termination of approval. The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

SECTION 108

FEES

108.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

108.2 Schedule of permit fees. On buildings, structures, or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority.

108.3 Building permit valuations. The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, final building permit valuation shall be set by the building official utilizing *Means Square Foot Costs* or similar documents, unless the applicant can show detailed estimates to meet the approval of the building official.

108.4 Work commencing before permit issuance. Any person, who commences any work on a building or structure, before obtaining the necessary permit, shall be subject to an additional fee established by the building official that shall be in addition to the required permit fees.

108.5 Related fees. The payment of the fee for the construction, alteration, removal or demolition for work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

108.6 Refunds. The building official is authorized to establish a refund policy.

SECTION 9

INSPECTIONS

109.1 General. Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not

be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

109.2 Preliminary inspection. Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

109.3 Required inspections. Upon notification in accordance with 109.5 or upon his own volition, the building official shall from time to time conduct inspections of the work for which the permit has been issued. These may include, but are not limited to, the inspections set forth in Sections 109.3.1 and 109.3.10.

109.3.1 Footing or foundation inspection. Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94; the concrete need not be on the job.

109.3.2 Concrete slab or under-floor inspection. Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

109.3.3 Lowest floor elevation. In flood hazard areas, upon placement of the lowest floor, including the basement, and prior to further vertical construction, the elevation certification required in Section 1612.5 shall be submitted to the building official.

109.3.4 Frame inspection. Framing inspections shall be made after the roof deck or sheathing, all framing, fire blocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

109.3.5 Lath or gypsum board inspection. Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or before gypsum board joints and fasteners are taped and finished.

Exception: Gypsum board that is not part of a fire resistive assemble or a shear assembly.

109.3.6 Fire-resistant penetrations. Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

109.3.7 Other inspections. In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to

ascertain compliance with the provisions of this code and other laws that are enforced by the department of building safety.

109.3.8 Special inspections. For special inspections, see Section 1704.

109.3.9 Final inspection. The final inspection shall be made after all work required by the building permit is completed.

109.4 Inspection agencies. The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

109.5 Inspection requests. It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspection of such work for any inspections that are required by this code.

109.6 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

SECTION 110 **CERTIFICATE OF OCCUPANCY**

110.1 Use and occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy there for as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

110.2 Change in use. Changes in the character or use of an existing structure shall not be made except as specified in Chapter 34.

110.3 Certificate issued. After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building safety, the building official shall issue a certificate of occupancy that shall contain the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner.
4. A description of that portion of the structure for which the certificate is issued.

5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the building official.
7. The edition of the code under which the permit was issued.
8. The use and occupancy, in accordance with the provisions of Chapter 3.
9. The type of construction as defined in Chapter 6.
10. The design occupant load.
11. If an automatic sprinkler system is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building permit.

110.4 Temporary occupancy. The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

110.5 Revocation. The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or any regulation or any of the provisions of this code.

SECTION 111 **SERVICE UTILITIES**

111.1 Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

SECTION 112 **BOARD OF APPEALS**

112.1 General. The board of appeals hearing matters related to the building code shall be the board of appeals established by Article IV, Section 4.06 of the City Charter. The rules and regulations governing said board shall apply.

SECTION 113 **VIOLATIONS**

113.1 Unlawful acts. It shall be unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, remove, demolish, use, or occupy any building or structure or equipment

regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

113.2 Notice of violation. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition, or occupancy of a building or structure in violation of the provisions of this code, or in violation of a detail statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

113.2.1 Service of notice of violation. A notice of violation or order may be served in hand to the violator or left with a person of suitable age and discretion at the residence place of business of the violator or mailed by certified mail, return receipt requested, to the last known address. If the return receipt is not returned, the notice shall be conclusively presumed to have been served if it is also sent by regular mail, postage prepaid, which is not returned as undeliverable by the postal service.

113.2.2 Request for appeal. Any person served an order, pursuant to this section, may request a hearing before the board of appeals by filing a written petition for said hearing at the code enforcement office within ten (10) days of the date of service of the order. The board of appeals may sustain, modify, or withdraw such order. The decision of the board of appeals may be further appealed pursuant to the provisions of Rule 80B of the Maine Rules of Civil Procedure.

113.3 Prosecution of violation. If the notice of violation is not complied with promptly, the building official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

113.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof, or shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the building official, or of a permit or certificate issued under the provisions of this Code, shall be liable for a fine as set forth in Chapter 1, Section 1-8 and Chapter 50, Section 50-36 of the Code of Ordinances of the City of AUBURN.

SECTION 114

STOP-WORK ORDER

114.1 Authority. Whenever the building official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the building official is authorized to issue a stop work order.

114.2 Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a

stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

114.3 Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$350.00 or more than \$2000.00

SECTION 115

UNSAFE STRUCTURES AND EQUIPMENT

115.1 Conditions. Structures or existing equipment that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

115.2 Record. The building official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

115.3 Notice. If an unsafe condition is found, the building official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejection of the terms of the order.

115.4 Method of service. Such notice shall be deemed properly served if a copy thereof is (a) delivered to the owner personally; (b) sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or (c) delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

115.5 Restoration. The structure or equipment determined to be unsafe by the building official is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements of Section 105.2.2 and Chapter 34.

SECTION 116

EMERGENCY MEASURES

116.1 Imminent danger. When in the opinion of the code official, there is imminent danger of failure or collapse of a building that endangers life, or when any building or part of a building has fallen and life is endangered by the occupation of the building, or when there is actual or potential danger to the building occupants of those in the proximity of any structure because of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases, or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: “This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official.” It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.

116.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

116.3 Closing streets. When necessary for public safety, the code official shall temporarily close structures and close or order the authority having jurisdiction to close sidewalks, streets, public ways, and places adjacent to unsafe structures, and prohibit the same from being utilized.

116.4 Emergency repairs. For the purposes of this section, the code official *may* employ the necessary labor and materials to perform the required work as expeditiously as possible.

116.5 Cost of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

116.6 Hearings. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board be afforded a hearing as described in this code.

SECTION 117 **DEMOLITION**

117.1 General. The code official shall order the owner of any premises upon which is located any structure that in the code official’s judgment is so old, dilapidated, or has become so out of repair as to be dangerous, unsafe, insanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner’s option; or where there has been a

cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

117.2 Notices and orders. All notices and orders shall comply with Section 113.

117.3 Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

117.4 Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The new proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

CHAPTER 2 DEFINITIONS

SECTION 201 GENERAL

Section 201.3 is hereby deleted:

Section 201.3 is hereby created as follows:

201.3 Terms defined in other codes. Where conflicts exist regarding definitions of like terms in this chapter and other chapters of this code of ordinances, each definition shall be applied only within the scope of each chapter and shall not be construed to be contradictory. Terms not defined in this code and are defined in other codes shall have the meanings ascribed to them as in those codes.

CHAPTER 3 USE AND OCCUPANCY CLASSIFICATION

305.2 Day care. The use of a building or structure, or portion thereof, for educational, supervision or personal care services for more than ~~five~~ two children older than 2 ½ years of age, which is not accessory to a residential use, shall be classified as a Group E occupancy.

308.2 Group I-1. This occupancy shall include buildings, structures or parts thereof housing more than ~~46~~ eight persons, on a 24-hour bases, who because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. This group shall include, but not be limited to, the following:

Residential board and care facilities
Assisted living facilities
Halfway houses
Group homes
Congregate care facilities
Social rehabilitation facilities
Alcohol and drug centers
Convalescent facilities

A facility such as the above with ~~five~~ eight or fewer persons shall be classified as a ~~Group R-3~~ Residential Group R or shall comply with the *International Residential Code* on accordance with Section 101.2. ~~A facility such as above, housing at least six and not more than 16 persons, shall be classified as Group R-4.~~

308.3 Group I-2 This occupancy shall include buildings and structures used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than five persons who are not capable of self-preservation. This group shall include, but not be limited to, the following:

Hospitals
Nursing homes (both intermediate-care facilities and skilled nursing facilities)
Mental hospitals
Detoxification facilities

A facility such as the above with ~~five~~ eight or fewer persons shall be classified as Group R-3 or shall comply with the *International Residential Code* in accordance with Section 101.2.

308.5 Group I-4, day care facilities. This group shall include buildings and structures occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage or adoption and in a place other than the home of the person cared for. A facility such as the above with ~~five~~ twelve or fewer persons accessory to a dwelling unit shall be classified as a ~~Group R-3~~ residential use or shall comply with the *International Residential Code* in accordance with Section 101.2. Places of worship during religious functions are not included.

308.5.1 Adult care facility. A facility that provides accommodations for less than 24 hours for more than ~~five~~ eight unrelated adults and provides supervision and personal care services shall be classified as Group I-4.

Exception: A facility where occupants are capable of responding to an emergency situation without physical assistance from the staff shall be classified as Group A-3.

308.5.2 Child care facility. A facility that provides supervision and personal care on less than a 24-hour basis for more than ~~five~~ two children ~~2-1/2~~ 15 years of age or less shall be classified as Group I-4.

Exception: A child day care facility that provides care for more than ~~five~~ two but no more than 100 children ~~2-1/2~~ 15 years or less of age, when the rooms where such children are cared for are located on the level of exit discharge and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.

SECTION 310 RESIDENTIAL GROUP R

310.1 Residential Group R. Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I. Residential occupancies shall include the following:

R-1 Residential occupancies where the occupants are primarily transient in nature including:

- Boarding houses (transient)
- Hotels (transient)
- Motels (transient)

R-2 Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

- Apartment houses
- Boarding houses (not transient)
- Convents
- Dormitories
- Fraternities and sororities
- Monasteries
- Vacation timeshare properties
- Hotels (not transient)
- Motels (not transient)

R-3 Residential occupancies where the occupants are primarily permanent in nature and not classified as R-1, R-2, R-4, or I and where buildings do not contain more than two dwelling units as applicable in Section 101.2, or adult and child care facilities that provide accommodations for ~~five~~ twelve or fewer persons of any age for less than 24 hours. Adult and child care facilities that are within a single -family home are permitted to comply with the *International Residential Code* in accordance with Section 101.2.

R-4 Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including not more than ~~five~~ eight ~~but not more than 16~~ occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined in Group R-3 except as otherwise provided for in this code or shall comply with the *International Residential Code* in accordance with Section 101.2.

SECTION 312

UTILITY AND MISCELLANEOUS GROUP U

312.1 General. Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Group U shall include, but not be limited to, the following:

- Agricultural buildings
- Aircraft hangars, accessory to a one-or two-family residence (see Section 412.3)
- Barns
- Carports
- Fences ~~more than 6 feet (1829 mm) high~~
- Grain silos, accessory to a residential occupancy
- Greenhouses
- Livestock shelters
- Private garages
- Retaining walls
- Sheds
- Stables
- Swimming pools
- Tanks
- Towers

CHAPTER 11

ACCESSIBILITY is hereby deleted.

CHAPTER 11

ACCESSIBILITY

SECTION 1101

GENERAL

1101.1 Applicable standard. The standard for accessible buildings and facilities shall be the Maine Human Rights Act, Title 5 MRSA Section 4551 et seq., and applicable building and facilities shall be constructed in accordance with ANSI A117.1 - 1986 for residential uses and the Americans with Disabilities Act Accessibility Guidelines for non-residential uses.

CHAPTER 12

INTERIOR ENVIRONMENT

SECTION 1204

TEMPERATURE CONTROL is hereby deleted.

CHAPTER 13

ENERGY EFFICIENCY is hereby deleted.

SECTION 1805 FOOTINGS AND FOUNDATIONS

1805.2 Depth of footing. The minimum depth of footings below the undisturbed ground surface shall be 12 inches (305 mm). Where applicable, the depth of footings shall also conform to Sections 1805.2.1 through 1805.2.3.

1805.2.1 Frost protection. Except where otherwise protected from frost, foundation walls, piers and other permanent supports of buildings and structures shall be protected from frost by one or more of the following methods:

1. Extending at least four feet to the bottom of the footing/ pier;
2. Constructing in accordance with ASCE-32; or
3. Erecting on solid rock.

Footing shall not bear on frozen soil unless such frozen condition is of a permanent character.

Exception: Free-standing buildings meeting all of the following conditions shall ~~not be required to be protected~~ be permitted to be constructed on a monolithic slab with integral footing:

1. Classified in Importance Category I or II;
2. Classified as Use Group B, F, M, H, S, or U;
3. Be of Type V construction;
4. Be one story and not more than 20 feet in height, measured to the eave;and.
5. Be not more than 2500 square feet in area;

Where permitted, the slab installation shall conform to the following:

- a. Structural loads shall be uniformly distributed along the length of the slab. Point loads shall be supported in accordance with Section 1805.2.1;
- b. Unless the existing soil is of a similar porosity as the required fill, original soil shall be removed and replaced with structural fill material that is a minimum depth of 24 inches of uniform, compacted, permeable aggregate such as crushed stone or gravel.
- c. The minimum width of the integral footing shall be 12 inches and exterior footings shall extend at least 12 inches below grade. Mid-span footings shall be a minimum of 12 inches wide and 8 inches thick.

- d. The minimum slab thickness shall be 4 inches.
- e. A row of # 4 rebar shall be placed in the lower and upper third of the exterior footing, not less than 3 inches from the surface of the footing. The slab shall be reinforced with either 6" x 6" wire mesh or fiber reinforcement.
- f. Finish grade shall be a minimum of 6 inches below the top of the slab.

CHAPTER 27
ELECTRICAL is hereby deleted.

CHAPTER 28
MECHANICAL SYSTEMS is hereby deleted.

CHAPTER 29
PLUMBING SYSTEMS is hereby deleted.

SECTION 3109
SWIMMING POOL ENCLOSURES AND SAFETY DEVICES

3109.2 Definition. The following word and term shall, for the purposes of this section and as used elsewhere in this code, have the meaning shown herein.

SWIMMING POOLS. Any structure intended for swimming, recreational bathing or wading that contains water over ~~24 inches (610 mm)~~ 36 inches (915) deep. This includes in-ground, above-ground and on-ground pools; hot tubs; spas and fixed-in-place wading pools.

CHAPTER 32
ENCROACHMENTS INTO THE PUBLIC RIGHT-OF-WAY is hereby deleted.

CHAPTER 33
SAFEGUARDS DURING CONSTRUCTION

SECTION 3303
DEMOLITION

3304.4 Vacant lot. Where a structure has been demolished or removed, the vacant lot shall be filled to grade with sand, gravel, or other approved inert fill material and the entire site shall be stabilized to prevent wind and water erosion. Any existing curb cuts shall be barricaded to prevent vehicular access.

3303.7 Insurance coverage. No permit for the demolition, destruction, or wrecking of any building or structure shall be issued unless the building official shall have first been furnished with satisfactory evidence of the fact that the applicant has secured a policy of liability insurance indemnifying the applicant for any liability incurred arising out of said demolition, destruction, or wrecking of a building or structure.

3303.7.1 Insurance limits. This insurance policy shall be in the amount of five hundred thousand dollars (\$500,000.00) per occurrence and one million dollars (\$1,000,000.00) aggregate.

3303.7.2 Waiver. The building official may waive the insurance requirements hereunder, provided that after personal inspection, the building official determines that there exists no reasonable danger or likelihood of injury as the result of said demolition, destruction, or wrecking. In no event shall such a waiver be granted if the building or structure to be demolished, destroyed, or wrecked is located within twenty (20) feet of the public street or sidewalk.

SECTION 3305 SANITATION

3305.1 Facilities required. Sanitary facilities shall be provided during construction, remodeling or demolition activities in accordance with Title 29, Part 1926, Section 51 of the Code of Federal Regulations (29 CFR 1926.51).

CHAPTER 34 EXISTING STRUCTURES

[EB] SECTION 3401 GENERAL

3401.3 Compliance with other codes. Alterations, repairs, additions and changes of occupancy shall comply with the provisions for alterations, repairs, additions and changes of occupancy in the currently adopted editions of the following: *National Fire Codes, State of Maine Internal Plumbing Rules, BOCA/ICC Property Maintenance Code, Maine Subsurface Waste Water Disposal Rules, and National Electrical Code.*

[EB] SECTION 3409.
ACCESSIBILITY FOR EXISTING BUILDINGS is hereby deleted.

[EB] SECTION 3409 ACCESSIBILITY FOR EXISTING BUILDINGS

3409.1 Applicable standard. Accessibility requirements for existing buildings and facilities shall be determined by the Maine Human Rights Act, Title 5 MRSA Section 4551 et seq, and

applicable building and facilities shall be constructed in accordance with ANSI A117.1 - 1986 for residential uses and the Americans with Disabilities Act Accessibility Guidelines for non-residential uses.

Chapter 20
Article II. International Residential Code

Sec. 2.1. Adoption of residential code.

There is hereby adopted by the city for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition and insurance coverage, use and occupancy, equipment, location and maintenance of building and structures, including permits and penalties, that certain residential building code known as the 2003 International Residential Code for One- and Two-Family Dwellings, save and except such portions as are in this article deleted, modified or amended. No fewer than one copy of such code have been and now are filed in the office of the city clerk and such copies are hereby adopted and incorporated as fully as if set out at length in this article.

Sec. 2.2. Amendments to the residential code.

The residential code adopted in section 2.1 is amended and changed as follows:
Chapter 1 is repealed in its entirety.

Chapter 1 ADMINISTRATION. is enacted to read as follows:

CHAPTER 1
ADMINISTRATION

SECTION R101
GENERAL

R101.1 Title. These provisions shall be known as the *Residential Code for One- and Two-Family Dwellings* of the City of Auburn, Maine, and shall be cited as such and will be referred to herein as “this code.”

R101.2 Scope. The provisions of the *International Residential Code for One- and Two-Family Dwellings* shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use, and occupancy, location,, removal, and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures.

R101.3 Purpose. The purpose of this code is to provide minimum requirements to safeguard the public safety, health and general welfare, through affordability, structural strength, means of egress facilities, stability, sanitation, light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment..

SECTION R102 **APPLICABILITY**

R102.1 General. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement. The specific requirement shall be applicable.

R102.2 Other Laws. The provisions of this code shall not be deemed to nullify any provisions of local, state and federal law.

R102.3 Application of references. References to chapter or section numbers, or to provisions specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

R102.4 Referenced codes and standards. The codes and standards referenced in this code shall be considered part of the requirements of this code to be prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

R101.4 Referenced codes. The other codes listed in Section 101.4.1 through 101.4.7 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

Exception: Where the enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing and manufacturer's instructions shall apply.

R101.4.1 Electrical. The provisions of the Chapter 9, Article I. Section 1.4 NATIONAL ELECTRICAL CODE of the Code of Ordinances of the City of AUBURN shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto. All references to the ICC *Electrical Code* are hereby deleted in favor of the applicable section(s) of the *National Electrical Code* as adopted.

R101.4.2 Gas. The provisions of Chapter 21, FIRE CODE of the aforementioned Code of Ordinances shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this code. All references to the *International Gas Code* are hereby deleted in favor of the applicable section(s) of the *National Fire Codes* as adopted.

R101.4.3 Mechanical. The provisions of the *International Mechanical Code* shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems.

R101.4.4 Plumbing. The provisions of Chapter 20A, Article 7. MINIMUM STANDARD FOR PLUMBING of the aforementioned Code of Ordinances shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewerage system. The provisions of the *Maine Subsurface Waste Water Disposal Rules* shall apply to private sewage disposal systems. All references to the *International Plumbing Code* and *International Private Sewage Disposal Code* are hereby deleted in favor of the applicable section(s) of these regulations.

R101.4.5 Energy. The provisions of the *Maine Guide to Energy Efficient Construction: A Manual of Accepted Practice* (third edition) shall apply to all habitable residential buildings and structures. The provisions of ASHRAE 90B shall be applicable to all occupiable nonresidential buildings and structures. All references to the *International Energy Conservation Code* are hereby deleted.

R102.5 Appendices. Provision in the appendices shall not apply unless specifically referenced on the adopting ordinance.

R102.6 Partial invalidity. In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts of the provisions.

R102.7 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the currently adopted *Property Maintenance Code*, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

R102.7.1 Additions, alterations, or repairs. Additions, alterations, or repairs to any structure shall conform to that required for a new structure without requiring the existing structure to comply with all the requirements to this code, unless otherwise stated. Additions, alterations, and repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building.

SECTION R103 **DEPARTMENT OF CODE ENFORCEMENT**

R103.1 Building official. The code enforcement division is hereby charged with the administration and enforcement of this code. The director of code enforcement and the building inspector, acting under the direction of the director of code enforcement, shall be designated as the municipal building officials for the purpose of administration and enforcement of the code.

R103.2 Qualifications of building official. To be eligible for appointment, the candidate for the position shall have had experience as an architect, structural engineer, building inspector, foreman or superintendent of building construction. He shall be in good health, physically capable of making the necessary examinations and inspections. He shall not have any interest whatever, directly or indirectly, in the sale or manufacture of any material, process, or device entering into or used in or in connection with building construction, alteration, removal and demolition.

R103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the director of code enforcement shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official.

SECTION R104

DUTIES AND POWERS OF BUILDING OFFICIALS

R104.1 General. The building official is hereby authorized and directed to enforce the provisions of this code. The building official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the applications of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

R104.2 Applications and permits. The building officials shall receive applications, review construction documents and issue permits for the erection, and alteration, demolition and moving of building and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this code.

R104.3 Notices and orders. The building official shall issue all necessary notices and orders to ensure compliance with this code.

R104.4 Inspections. The building official shall make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

R104.5 Identification. The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

R104.6 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure at reasonable times to inspect or to perform the duties imposed by this code, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the building official shall first make reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by the law to secure entry.

R104.7 Department records. The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

R104.8 Liability. The building official or other employee or appointee charged with the enforcement of this code, while acting for the jurisdiction in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this code.

R104.9 Approved materials and equipment. Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

R104.9.1 Used materials and equipment. The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

R104.10 Modifications. Wherever there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or the owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code at that such modification does not lessen health, accessibility, life and fire safety, or structural

requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

R104.10.1 Areas prone to flooding. The building official shall not grant modifications to any provision related to areas prone to flooding as established by Table R301.2(1) without the granting of a variance to such provisions by the board of appeals.

R104.11 Alternative materials, design and methods of construction and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

R104.11.1 Test. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized and accepted test standards. In the absence of recognized and accepted test methods, the building official shall approve the test procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

SECTION R105

PERMITS

R105.1 Required. Any owner or authorized agent who intends to construct, enlarge, alter, repair, remove, move, demolish, or change the occupancy of a building or structure, or erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permits.

R105.2 Work exempt from permit. Exemptions from permit requirements for this code shall not be deemed to grant authorization for any work to be done in any manner in violations of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

1. Repairs, in accordance with Section 105.2.2.
2. Reroofing, where no structural repairs or improvements are involved.
3. Siding of existing buildings or structures, where no structural repairs or improvements are involved.

4. Painting, papering, tiling, carpeting, cabinets, counter tops and similar work.
5. Prefabricated swimming pools, accessory to one- and two-family dwellings, which have less than 36 inches (915 mm) of water depth capacity and are installed entirely above ground.
6. Swings and other playground equipment accessory to one- and two-family dwellings.
7. Window awnings supported by an exterior wall of one- and two-family dwellings.

R105.2.1 Emergency repairs. When equipment replacement and building repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.

R105.2.2 Repairs. Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements.

R105.3 Application for permit. To obtain a permit, the applicant shall first file an application thereof in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in Section 106.1.
5. State the valuation of the proposed work.
6. Be signed by the applicant, or the applicant's authorized agent.
7. Give such other data and information as required by the building official.

R105.3.1 Action on application. The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building shall reject such application in writing, stating the reasons therefore. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefore as soon as practicable.

R105.3.1.1 Substantially improved or substantially damaged existing buildings and structures. For applications for reconstruction, rehabilitation, addition or other improvement of existing buildings or structures located in a area prone to flooding as established by Table R301.2(1), the building official shall examine or cause to be

examined the construction documents and shall prepare a finding with regard to the value of the proposed work. For buildings that have sustained damage of any origin, the value of the proposed work shall include the cost to repair the building or structure to its predamaged condition. If the building official finds that the value of the proposed work equals or exceeds 50 percent of the market value of the building or structure, the building or structure shall be brought into conformance with the requirements of Article XII, Section 4 of Appendix A - Zoning and Land Use Code of the City of Auburn.

R105.3.2 Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

R105.4 Validity of permit. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

R105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

R105.6 Suspension or revocation. The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code or other municipal ordinance.

R105.7 Placement of permit. The building permit or copy shall be kept on the site of the work until the completion of the project.

R105.8 Responsibility. It shall be the duty of every person who performs work for the installation, construction, or repair of a building or structure, for which this code is applicable, to comply with this code.

SECTION R106

CONSTRUCTION DOCUMENTS

R106.1 Submittal documents. Construction documents, special inspection and structural observation programs, and other data shall be submitted in one or more sets with each application for a permit. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with this code.

R106.1.1 Information on construction documents. Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, ordinances, rules and regulations, as determined by the building official.

R106.1.2 Manufacturer's installation instructions. Manufacturer's installation instructions, as required by this code, shall be available on the job site at the time of inspection.

R106.1.3 Information for construction in areas prone to flooding. For buildings and structures in the flood hazard areas as established by Table 301.2(1), construction documents shall include:

1. Delineation of flood hazard areas, floodway boundaries, and flood zones, and the design flood elevation, as appropriate;
2. The elevation of the proposed lowest floor, including basement; in areas of shallow flooding (AO zones), the height of the proposed lowest floor, including basement, above the highest adjacent grade; and
3. If design flood elevations are not included on the community's Flood Insurance 'Rate Map (FIRM), the building official and the applicant shall obtain and reasonably utilize any design flood elevation and floodway data available from other sources.

R106.2 Site plan. The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site and distances from lot lines. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and

construction that are to remain on the site or plot. The building official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when otherwise warranted.

R106.3 Examination of documents. The building official shall examine or cause to be examined construction documents for code compliance.

R106.3.1 Approval of construction documents. When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as “Reviewed for Code Compliance.” One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or his authorized representative.

R106.3.2 Previous approvals. The code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

R106.3.3 Phased approval. The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided the adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder’s own risk with the building operation and without assurance that a permit for the entire structure will be granted.

R106.4 Amended construction documents. Work shall be installed in accordance with the reviewed construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

R106.5 Retention of construction documents. One set of approved construction documents shall be retained by the building official as required by state or local laws.

SECTION R107 **TEMPORARY STRUCTURES AND USES**

R107.1 General. The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official is authorized to grant extensions for demonstrated cause.

R107.2 Conformance. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

R107.3 Temporary power. The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the ICC *Electrical Code*.

R107.4 Termination of approval. The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

SECTION R108 **FEES**

R108.1 Payment of fees. A permit shall not be valid until the fees prescribed by law have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

R108.2 Schedule of permit fees. On buildings, structures, or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the schedule as established by the applicable governing authority.

R108.3 Building permit valuations. The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, final building permit valuation shall be set by the building official utilizing *Means Square Foot Costs* or similar documents, unless the applicant can show detailed estimates to meet the approval of the building official.

R108.4 Work commencing before permit issuance. Any person who commences any work on a building or structure, before obtaining the necessary permit, shall be subject to an additional fee established by the building official that shall be in addition to the required permit fees.

R108.5 Related fees. The payment of the fee for the construction, alteration, removal or demolition for work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

R108.6 Refunds. The building official is authorized to establish a refund policy.

SECTION R109 **INSPECTIONS**

R109.1 Types of construction. For on-site construction, from time to time the building official, upon notification from the permit holder or his agent, shall make or cause to be made any necessary inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent wherein the same fails to comply with this code.

R109.1.1 Foundation inspection. Inspection of the foundation shall be made after poles or piers are set or trenches or basement areas are excavated and any required forms erected and any required reinforcing steel is in place and prior to the placing of concrete. The foundation inspection shall include excavations for thickened slabs for the support of bearing walls, partitions, structural supports, or equipment and special requirements for wood foundations.

R109.1.2 Plumbing, mechanical, gas, and electrical systems inspection. Rough inspection of plumbing, mechanical, gas, and electrical systems shall be made prior to covering and concealment, before fixtures or appliances are set or installed, and prior to framing inspections.

Exception: Ground-source heat pump loop systems tested in accordance with Section M2105.1 shall be permitted to be backfilled prior to inspection.

R109.1.3 Floodplain inspection. For construction permitted in areas prone to flooding as established by Table R301.2(1), upon placement of the lowest floor, including basement, and prior to further vertical construction, the building official shall require submission of documentation, prepared and sealed by a registered design professional, of the elevation of the lowest floor, including basement, as required in Section R323.

R109.1.4 Frame and masonry inspection. Inspection of framing and masonry construction shall be made after the roof, masonry, all framing, firestopping, draftstopping, and bracing are in place and after the plumbing, mechanical, and electrical rough inspections are approved.

R109.1.5 Other inspections. In addition to the called inspections above, the building department may make or require any other inspections to ascertain compliance with this code and other laws enforced by the building department.

R109.1.5.1 Fire-resistance-rated construction inspections. Where fire-resistance-rated construction is required between dwelling units or due to location on property, the building official shall require an inspection of such construction after all lathing and /or wallboard is in place, but before any plaster is applied, or before wallboard joints and fasteners are taped and finished.

R109.1.6 Final inspection. Final inspection shall be made after all the permitted work is complete and prior to occupancy.

R109.2 Inspection agencies. The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

R109.3 Inspection requests. It shall be the duty of the person doing the work authorized by a permit to notify the building official that such work is ready for inspection. It shall be the duty of the person requesting any inspections required by this code to provide access to and means for inspection of such work for any inspections that are required by this code.

R109.4 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

SECTION R110 **CERTIFICATE OF OCCUPANCY**

R110.1 Use and occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy there for as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction.

R110.2 Change in use. Changes in the character or use of an existing structure shall not be made except as specified in Sections 3405 and 3406 of the *International Building Code*.

R110.3 Certificate issued. After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building safety, the building official shall issue a certificate of occupancy that shall contain the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.

6. The name of the building official.
7. The edition of the code under which the permit was issued.
8. The use and occupancy
9. The type of construction
10. Any special stipulations and conditions of the building permit.

R110.4 Temporary occupancy. The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

R110.5 Revocation. The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this code wherever the certificate is issued in error, on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or any regulation or any of the provisions of this code.

SECTION R111 **SERVICE UTILITIES**

R111.1 Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the codes referenced in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

SECTION R112 **BOARD OF APPEALS**

R112.1 General. The board of appeals hearing matters related to the residential code shall be the board of appeals established by Article IV, Section 4.06 of the City Charter. The rules and regulations governing said board shall apply.

SECTION R113 **VIOLATIONS**

R113.1 Unlawful acts. It shall be unlawful for any person, firm, or corporation to erect, construct, alter, extend, repair, move, remove, demolish, or occupy any building, structure, or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

R113.2 Notice of violation. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition, or occupancy of a building or structure in violation of the provisions of this code, or in violation of a detail statement or a plan approved there under, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

R113.2.1 Service of notice of violation. A notice of violation or order may be served in hand to the violator or left with a person of suitable age and discretion at the residence of place of business of the violator or mailed by certified mail, return receipt requested, to the last known address. If the return receipt is not returned, the notice shall be conclusively presumed to have been served if it is also sent by regular mail, postage prepaid, which is not returned as undeliverable by the postal service.

R113.2.2 Request for appeal. Any person served an order, pursuant to this section, may request a hearing before the board of appeals by filing a written petition for said hearing at the code enforcement office within ten (10) days of the date of service of the order. The board of appeals may sustain, modify, or withdraw such order. The decision of the board of appeals may be further appealed pursuant to the provisions of Rule 80B of the Maine Rules of Civil Procedure.

R113.3 Prosecution of violation. If the notice of violation is not complied with in the time prescribed by such notice, the building official is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceedings at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

R113.4 Violation penalties. Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof, or shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the building official, or of a permit or certificate issued under the provisions of this Code, shall be liable for a fine as set forth in Chapter 1, Section 1-8 and Chapter 50, Section 50-36 of the Code of Ordinances of the City of Auburn.

SECTION R114

STOP WORK ORDER

R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work will be permitted to resume.

R114.2 Unlawful continuance. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

CHAPTER 2 DEFINITIONS

R201.3 Terms defined in other codes. Where conflicts exist regarding definitions of like terms in this chapter and other chapters of this code of ordinances, each definition shall be applied only within the scope of each chapter and shall not be construed to be contradictory. Terms not defined in this code that are defined in other referenced codes shall have the meanings ascribed to them as in those codes.

CHAPTER 3 BUILDING PLANNING

Table R301.2(1) **Climatic and Geographic Design Criteria**

<u>Ground Snow Load</u>	<u>80 psf</u>
<u>Wind Speed</u>	<u>90 mph</u>
<u>Seismic Design Category</u>	<u>B</u>
<u>Subject to Damage from:</u>	
<u>Weathering</u>	<u>Severe</u>
<u>Frost Line Depth</u>	<u>4"-0"</u>
<u>Termites</u>	<u>None to Slight</u>
<u>Decay</u>	<u>None to Slight</u>
<u>Winter Design Temperature</u>	<u>-5</u>
<u>Ice Shield Underlayment Required</u>	<u>Yes</u>
<u>Flood Hazards:</u>	
<u>a. Date of adoption of 1st flood management ordinance</u>	<u>10/31/1972</u>
<u>b. Date of currently effective FIRM map</u>	<u>10/18/1995</u>
<u>Air Freezing Index</u>	<u>1500</u>
<u>Mean annual temperature</u>	<u>45.8 degrees</u>

Part IV-----Energy Conservation

Chapter 11 ENERGY EFFICIENCY is hereby deleted.

Part VI-----Fuel Gas

Chapter 24 FUEL GAS is hereby deleted.

Part VII-----Plumbing

Chapter 25 PLUMBING ADMINISTRATION is hereby deleted.

Chapter 26 GENERAL PLUMBING REQUIREMENTS is hereby deleted.

Chapter 27 PLUMBING FIXTURES is hereby deleted.

Chapter 28 WATER HEATERS is hereby deleted.

Chapter 29 WATER SUPPLY AND DISTRIBUTION is hereby deleted.

Chapter 30 SANITARY DRAINAGE is hereby deleted.

Chapter 31 VENTS is hereby deleted.

Chapter 32 TRAPS is hereby deleted.

Part VIII-----Electrical

CHAPTER 33 GENERAL REQUIREMENTS is hereby deleted.

E3301.1 Applicability. The provisions of the currently adopted edition of the *National Electrical Code (NFPA 70)* shall cover the installation of electrical systems, equipment and components indoors and outdoors that are within the scope of the aforementioned *Electrical Code*, including services, power distribution systems, fixtures, appliances, devices and appurtenances.

CHAPTER 34 ELECTRICAL DEFINITIONS is hereby deleted.

CHAPTER 35 SERVICES is hereby deleted.

CHAPTER 36 BRANCH CIRCUIT AND FEEDER REQUIREMENTS is hereby deleted.

CHAPTER 37 WIRING METHODS is hereby deleted.

CHAPTER 38 POWER AND LIGHTING DISTRIBUTION is hereby deleted.

CHAPTER 39 DEVICES AND LUMINAIRES is hereby deleted.

CHAPTER 40 APPLIANCE INSTALLATION is hereby deleted.

CHAPTER 41 SWIMMING POOL is hereby deleted.

CHAPTER 42 CLASS 2 REMOTE-CONTROL, SIGNALING AND POWER-LIMITED CIRCUITS is hereby deleted.

City Council

Agenda Information Sheet

Council Meeting Date: 8/17/2009 Agenda Item No. 5

SUBJECT:

RESOLVE – AUTHORIZE CITY MANAGER TO ACCEPT AN AMOUNT NOT TO EXCEED \$5,000 FROM SPC TRANSPORT CO. RE: WEST HARDSCRABBLE ROAD IMPROVEMENTS

INFORMATION:

In 2002 the City reconstructed West Hardscrabble Road from Lewiston Junction Rd to the western boundary of Bark Mulch Lane. Subsequent to the completion of these improvements Mr. Todd Prawer purchased a parcel of property and constructed his business operations center (SPC Transport Co.) on West Hardscrabble Rd located just beyond the terminus of the road improvement project. Mr. Prawer's business provides trucking services, freight brokerage and logistics assistance to wide variety of clients. Mr. Prawer, subsequent to the establishment of his business, contacted the City and brought to our attention that a hazardous situation existed due to the activities associated with his business. The road geometrics, pavement deterioration and narrowing of the road made truck turning movements on and off his property hazardous. He requested that the City extend the West Hardscrabble Rd improvements to the Poland town boundary.

Upon inspection by City staff, agreement was reached that due to the road conditions and safety considerations similar improvements as were made to West Hardscrabble Rd should be extended to Mr. Prawer's main access driveway. Mr. Prawer has agreed to cost participate in these improvements as set forth in the attached Memorandum of Understanding.

STAFF COMMENTS/RECOMMENDATION:

The City Manager recommends passage of the resolve.

REQUESTED ACTION:

Motion for passage of the resolve.

VOTE:

City of Auburn

City Council, Auburn, Maine

Date: August 17, 2009

TITLE: RESOLVE – AUTHORIZE CITY MANAGER TO ACCEPT AN
AMOUNT NOT TO EXCEED \$5,000 FROM SPC TRANSPORT
CO. RE: WEST HARDSCRABBLE ROAD IMPROVEMENTS

Be It Resolved by the Auburn City Council that the City Manager is hereby authorized to accept an amount not to exceed \$5,000 from SPC Transport Co. to be used for improvements to West Hardscrabble Road.

A Memorandum of Understanding between the City of Auburn and Todd I. Praver, SPC Transport Co. is hereby attached to and made a part of this resolve.

Motion for acceptance:

Seconded by:

Vote:

Action by the City Council:

Date:

Attest:

City Clerk

Memorandum of Understanding

This memorandum was drafted in an effort to stipulate the responsibilities of all parties engaged in the extension of improvements along W. Hardscrabble Road.

This extension of improvements was requested by Mr. Todd I. Prawer, SPC Transport Co. located at 224 W. Hardscrabble Road. The business operation necessitates many truck turning movements onto and off of W. Hardscrabble Road and the existing situation creates a safety concern of the traveling public and his employees. The conditions that cause the concern are the narrowing of the road along the frontage of his property and the deteriorating roadway condition.

City of Auburn agrees to widen and overlaid the roadway shoulder (approximately 200 feet) from the point at which the shoulder begins to narrow and then will taper back to the original roadway limit (approximately 90 feet) and pave over the entire improvement area.

Mr. Todd I. Prawer agrees to cost participate in this project by placing on deposit with the City of Auburn \$5,000. This amount represents an upset limit on cost to Mr. Prawer and is intended to reflect a 25% share. At the conclusion of the project a detailed project cost breakdown will be presented to Mr. Prawer. If the total cost of the project should turn out to be less than \$20,000, a rebate will be given from the deposit for any amount over a 25% cost share. If the project exceeds \$20,000 no additional cost will be charged to Mr. Prawer.

Mr. Todd I. Prawer agrees to indemnify and hold harmless the city for any losses, damages, claims injuries for personal injury and/or property damage and any and all claims in regard to the completion of the improvements to W. Hardscrabble Rd.

This document constitutes the entire understanding of the parties with respect to the subject matter hereof. The respective responsibilities of all parties and selected in this memorandum shall not be altered or amended except by written instrument executed by both parties. Agreement of the parties is indicated by the signatures affixed.

DATED this _____ day of August, 2009.

TODD I. PRAWER
SPC TRANSPORT CO.

GLENN AHO
CITY MANAGER

City Council

Agenda Information Sheet

Council Meeting Date: 8/17/2009 Agenda Item No. 6

SUBJECT:

SIGN “CERTIFICATE OF SETTLEMENT” FOR 2008-2009 TAX YEAR

INFORMATION:

Staff is requesting that Councilors sign the attached “Certificate of Settlement” as explained in the attached memo from Betty Griebel, Tax Collector.

STAFF COMMENTS/RECOMMENDATION:

The City Manager recommends that Councilors sign the “Certificate of Settlement”.

REQUESTED ACTION:

Motion to sign the “Certificate of Settlement”.

VOTE:

Memo

To: Tracy Roy, Finance Director
From: Betty Griebel, Tax Collector
CC: Mary Lou Magno, City Clerk
Date: 8/13/2009
Re: Certificate of Settlement 2008-2009 Tax Year

Please find attached a copy of my Certificate of Settlement for the 2008-2009 Tax Year.

As you know this is basically a housekeeping issue with the completion of the Tax Collector's duties for collection for a specific tax year.

This is in accordance with Title 36 § 760 which reads:

Title 36: TAXATION
Part 2: PROPERTY TAXES
Chapter 105: CITIES AND TOWNS
Subchapter 6: POWERS AND DUTIES OF TAX COLLECTORS

§760. Perfection of collections

Municipal assessors, or municipal officers in the case of primary assessing areas, shall specify in the collector's warrant the date on or before which the tax collector shall perfect his collections. Such date shall not be less than one year from the date of the commitment of taxes. In the event that no time is specified in the collector's warrant, tax collectors shall perfect their collections within 2 years after the date of the commitment of taxes.

I will continue to collect the outstanding taxes, under the duties of Treasurer.

Certificate of Settlement
36 MRSA § 763

County of Androscoggin, ss

To, Betty J. Griebel, Tax Collector of the Municipality of Auburn, within this county:

We hereby certify that the 2008-2009 taxes committed to you consisting of:

1. Real and Personal Tax commitments:	<u>\$38,216,937.25</u>	
2. Supplemental Commitments totaling:	<u>\$40,076.74</u>	
3. Interest:	<u>\$305,089.11</u>	
4. A Grand Total of:		<u>\$38,562,103.10</u>
5. Cash Payments:	<u>\$37,022,165.37</u>	
6. Abatements Granted:	<u>\$134,328.67</u>	
7. Tax Lien Mortgages:	<u>\$1,003,356.67</u>	
8. Other Credits:	<u>\$305,089.11</u>	
9. A Net Total of:		<u>\$38,464,939.82</u>
10 Balance Due of:		<u>\$97,163.28</u>

Under the authority contained in MRSA, Title 36, section 763, as amended,
we hereby discharge you from further liability or obligation to collect the
balance due of: \$97,163.28

and acknowledge receipt of the tax lists for the taxable year 2008-2009.

Given under our hands this 3rd day of August, A.D. 2009.

Municipal Officers