

PACKET NOTES: Prepared for Selectmen's agenda 1/09/2011

By the ORDINANCE REVIEW COMMITTEE

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To: Board of Selectmen
From: Herb Maine, (Ordinance Review Committee)
Cc: Eric Dyer
Date: 01/09/2011
RE: Fee Schedule Workshop

The Board of Selectmen (Board) voted on 12/8/2010 to move the proposed amendment to the Selectmen's ordinance to Town Meeting contingent on a workshop to review the fee schedule.

This is a reminder to the Board that the Ordinance Review Committee stands ready to help prepare materials and provide any support required to make the workshop effective and efficient.

It is our hope that this workshop can be held sooner rather than later while much of information is relatively fresh and available.

Ordinance Review Committee
2010-2011

1/6/2011 9:16

Blue dates are planned
Red Boxes are adopted ordinances

Team	submitted	1 st Reading	2 nd Reading	Town Meeting	Notes
ORDINANCES ADOPTED BY REFERENCE					
Dog Control	mh-kh 12/01/10	12/08/10	01/12/11		
Solid Fuel Stove Safety	jw,hm 01/12/11				
Public Swimming Pool					work has begun
Dance Hall	pr				work has begun
Special Amusement	pr				work has begun
Victualers License	hm 11/18/09	07/14/10	10/13/10	11/20/10	OUT OF COMMITTEE
Solid Waste Facility	hm 12/01/10	01/12/11			
Licenses and Permits					
EXISTING WITH POTENTIAL SECTION REVIEW					
Coastal Waters Sec. 13.5 and 13.6					
POTENTIAL NEW ORDINANCES					
Weight Limit Posting Roads	hm 06/30/10	07/14/10	09/08/10	11/20/10	OUT OF COMMITTEE
Cemetery Committee	dd				
Road Plan Committee	hm-jw 08/27/10	10/13/10	12/08/10	2011	
Capital Projects Committee	jw 08/27/10	10/13/10	1/12/2011		Moved to a third reading
Chandler's Field	dd,lb,kh				the group has met and begun work
Docks and Wharves	kh-hm				
Bicycles on Public Ways	dc				
Property Assessed Clean Energy (PACE)	bh 11/08/10	01/12/11			
Wind Turbine Ordinance	bh				
CENTRALIZE FEE & PERMITS					
Authorize BOS to set fees	hm 08/27/10	10/13/10	12/08/10	2011	OUT OF COMMITTEE
Emergency Management (rev)					Alter language to allow fee schedule
Zoning (rev)					Alter language to allow fee schedule
Floodplain Management (rev)					Alter language to allow fee schedule
Growth Management (rev)					Alter language to allow fee schedule
Coastal Waters (rev)					Alter language to allow fee schedule
Parking (rev)					Alter language to allow fee schedule

CAPITAL PLANNING & FINANCE COMMITTEE ORDINANCE

**of the Town of Chebeague Island
MAINE**

Adopted by the Board of Selectmen:

Effective:

Attest:

Town Clerk

Seal:

SECTION 101. TITLE

This Ordinance shall be known as and may be cited as the “Capital Planning & Finance Committee Ordinance in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to establish a standing committee in the Town of Chebeague Island, Maine to be known as the Capital Planning & Finance Committee and shall be referred to herein as “the Committee”. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001.

SECTION 103. ORGANIZATION AND ADMINISTRATION

- a) **Membership.** The Committee shall consist of ~~no more than~~ ~~no more than~~ ~~three~~ ~~three~~ -members who shall be appointed by the Board of Selectmen.
- b) **Term.** Members shall serve for terms of 3 years, staggered ~~if possible~~ ~~if possible~~ such that no more than one member’s term expires each year.
- c) **Chairman.** The Committee shall elect a Chairman from among its members. The Chairman shall call meetings as required by this Ordinance, or as necessary or when so requested by a majority of members or the Board of Selectmen. The Chairman shall preside at all meetings.
- d) **Secretary.** The Committee shall elect a Secretary. The Secretary shall maintain a record of all proceedings including all correspondence of the Committee and regularly submit the records to the Town Clerk.
- e) **Subcommittees.** The Committee may, with majority approval from the municipal officers, establish and populate sub-committees, ad hoc or standing, to address specific areas of capital planning.
- f) **Notice.** All meetings shall be held in a public place and scheduled through the Town Administrator who shall provide reasonable notice.
- g) **Quorum.** A quorum necessary to conduct business shall consist of at least a majority of members.
- h) All meetings and records shall be subject to the Maine Freedom of Access Act, 1 M.R.S.A. Sections 401-410.

SECTION 104. DUTIES OF THE COMMITTEE

- a) The primary duty of the committee is to advise the Board of Selectmen by (1) ~~assisting them as they~~ identify, assess, and prioritize long-term capital needs, (2) researching and developing long-term capital expenditure plans and/or options for town facilities and infrastructure, (3) researching finance options, and (4) analyzing the fiscal impacts thereof. Town facilities and infrastructure include:
 - **Public buildings;** fire station, town offices, public works structures, transfer station, school, and others as may be constructed or acquired.

- **Transportation facilities;** public wharves and landings, roads and parking areas, and others as may be constructed or acquired.
 - **Public works equipment.**
 - **Public safety equipment.**
 - **Town administrative equipment.**
 - **Town-owned land.**
- b) The Committee shall work in cooperation with the Board of Selectmen, Town Administrator, Road Commissioner, Fire Chief, and School Superintendent as it identifies capital needs and develops capital expenditure plans.
- c) The Committee may adopt rules of procedure not inconsistent with this Ordinance.
- d) The Board of Selectmen and town staff shall cooperate with and provide the Committee with such information as may be reasonably necessary and available to enable it to carry out its duties under this Ordinance. The town staff shall also provide assistance updating electronic records as necessary.

SECTION 105. AUTHORITY OF THE COMMITTEE

The Committee's authority shall be advisory only. The Board of Selectmen may use any or all parts of the Committee's capital expenditure plans at their discretion.

SECTION 106. AMENDMENTS

This Ordinance may be amended by Town Meeting.

SECTION 107. SEVERABILITY

In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

DOG CONTROL ORDINANCE

**of the Town of Chebeague Island
MAINE**

Adopted by the Town Meeting:
Effective:

Attest:

Town Clerk

Seal:

Town of Chebeague Island Code of Ordinances
Chapter 19 – Public Health and Welfare
Article II – Dog Control

DRAFT 1E 11/15/2010 4:00:00 PM

SECTION 101. TITLE

This Ordinance shall be known as and may be cited as “Dog Control in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to provide regulations in addition to those contained in Title 7, M.R.S.A. with respect to controlling dogs throughout the Town of Chebeague Island in the interest of the health, safety and general welfare of its residents, visitors, domestic and farm animals, as well as wildlife. This Ordinance is adopted pursuant to 30-A M.R.S.A. §3001.

[Maine Revised Statutes Annotated Currentness. Title 7. Agriculture and Animals. Part 9. Animal Welfare. Chapter 717. Animal Welfare Act. Chapter 719. Uncontrolled Dogs. Chapter 720. Rabies Prevention and Shelter Provisions. Chapter 721. Dog Licenses. Chapter 727. Dangerous Dogs. Chapter 729. Damage by Animals. Chapter 745. Sale of Dogs and Cats.

Citation: 7 M.R.S.A. §3901 - 4163; 12 M. R. S. A. § 12707

Summary: These Maine statutes comprise the state's dog laws. Among the provisions included are licensing requirements, laws that determine the disposition of loose or dangerous dogs, and a chapter on the sale of dogs.]

SECTION 103. DEFINITIONS

a) **[At Large]** The term ‘**[At Large]**’ shall refer to / mean a lack of restraint, confinement, or control. A dog is always regarded as being "at large" when it is off its owner's premises, without a leash, and without a person to control the dog; a dog running, wandering, roving and rambling at will, when it is beyond control or call and is acting on his own initiative, and under such circumstances wherein there is no connection, physical or sympathetic, between the dog and the master. A dog, loose and leading or following the person in charge of him, on the streets of Chebeague, at such a distance that the person is not able to exercise that control over the dog, which would prevent mischief, is also 'going at large'.

b) **[Dangerous dog]** The term ‘**[Dangerous dog]**’ shall refer to / mean a dog that bites an individual or a domesticated animal who is not trespassing on the dog owner's or keeper's premises at the time of the bite or a dog that causes a reasonable and prudent person who

is not on the dog owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear imminent bodily injury by assaulting or threatening to assault that individual or individual's domestic animal. "Dangerous dog" does not include a dog certified by the State and used for law enforcement use. "Dangerous dog" does not include a dog that bites or threatens to assault an individual who is on the dog owner's or keeper's premises if the dog has no prior history of assault and was provoked by the individual immediately prior to the bite or threatened assault. For the purposes of this definition, "dog owner's or keeper's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog. 7 M.R.S.A. § 3952; § 3907 Definitions 12-D

c) **[Owner]** The term '**[Owner]**' shall refer to / mean a person owning, keeping or harboring a dog or other animal.

7 M.R.S.A. § 3907 Definitions 21

d) **[Keeper]** The term '**[Keeper]**' shall refer to / mean someone with care, custody, and control of a dog. One becomes the keeper of a dog only when he either with or without the owner's permission undertakes to manage, control or care for it as dog owners in general are accustomed to do.

e) **[Securely confined]** The term '**[Securely confined]**' shall refer to / mean a building, a heavy duty dog run, or a fenced area, not including an area having an electronic invisible perimeter fence, from which a dog can not escape. 7 M.R.S.A. § 3952

f) Title 7-A M.R.S.A. §3907 shall govern the construction of words contained in this Ordinance.

g) Any words not otherwise defined therein shall be given their common and ordinary meaning.

SECTION 104. LICENSE

No person shall keep a dog within the limits of the Town of Chebeague Island, unless such dog shall have been duly licensed by its owner in accordance with the statutes of the State of Maine.

SECTION 105. DOG CONTROL

No person owning or keeping a dog within limits of the Town of Chebeague shall permit it to stroll or roam at large off premises owned or occupied by such persons, to protect the health, safety, and general welfare of other residents of said Town. This shall not apply to dogs controlled by a leash or "at heel" beside the owner or keeper and consistently obedient to such person's commands.

A dog exercising, running, strolling, swimming on a beach while off leash must be kept under close supervision and must have the full attention of its owner or keeper.

Town of Chebeague Island Code of Ordinances
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A person owning or keeping a dog known to be a dangerous dog must keep said dog securely confined or muzzled when on owner's/keeper's property, and controlled on a strong 6 foot or shorter leash when not on the owner's/keeper's property.

No person owning or keeping a dog shall permit, by loud, frequent, or habitual barking, howling, or yelping to disturb the peace of any other person or persons.

It shall be the duty of any owner or keeper of a dog or anyone in possession or control of a dog to remove and dispose of, in a safe and healthful manner, any waste left by the animal on any street, roadside, beach (above and below the high tide mark) or publicly owned property, or any private property where that person does not have permission of the owner to leave waste.

Exemption. The requirements for removing dog waste under this section shall not apply to a dog accompanying any handicapped person, who, by reason of the handicap, is physically unable to comply with the requirements of this section.

Persons owning or keeping a dog must ensure that said dog wear a collar having an identification tag providing owner or keeper contact information, as well as current rabies vaccination tags.

Community members are encouraged to report dogs "at large" to authorities.

Community members are required to report threatening or seemingly "dangerous dogs" and incidents of aggressive dog behaviors, (including but not limited to blocking the passage of a person; chasing a person or animal; nipping, biting or attacking a person or animal) to authorities. 7 M.R.S.A. § 3952

SECTION 106. ADMINISTRATION AND ENFORCEMENT

This Ordinance shall be administered by the municipal officers and may be enforced by the animal control officer or law enforcement officer with jurisdiction in the Town of Chebeague Island.

SECTION 107. PENALTIES

Whoever violates any of the provisions of this ordinance shall receive a warning for the 1st offense and be punished by a fine of twenty-five dollars (\$25.00) for the 2nd offense, fifty dollars (\$50.00) for the 3rd offense, and one hundred dollars (\$100.00) for each subsequent offense.

In addition to any penalty fine, any keeper and/or owner(s) whose dog is taken by a constable, police officer, dog control officer or other duly authorized person and placed in the care of the Town and/or its agents, prior to reclaiming his animal, shall pay to the Town Clerk an administrative and impounding fee of fifteen dollars (\$15.00) per dog and all other costs, including veterinarian costs relative to injury, to the Town for the

Town of Chebeague Island Code of Ordinances
Chapter 19 – Public Health and Welfare
Article II – Dog Control

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handling and care of the animal(s) as may be determined by the Animal Control Officer and promulgated by the Board of Selectmen. Any keeper and/or owner whose dog has been impounded 3 or more times shall pay a fee of \$25.00 each and every time the dog is impounded thereafter.

SECTION 108. AMENDMENTS

This Ordinance may be amended by Town Meeting at any properly noticed meeting.

SECTION 109. SEVERABILITY

In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

To: Board of Selectmen
From: Herb Maine (Ordinance Review Committee)
Cc: Scott Seaver
Date: 11/16/2010
RE: Proposed Ordinance Solid Waste [*FIRST READING*]

Current Status: This ordinance was one of the nine adopted by reference at the first town meeting. The Cumberland ordinance adopted was last amended on 3/13/1985. The ordinance as adopted is about 8 pages long and covers fairly standard topics such as waste types, fees. The island's municipal solid waste facility is addressed separately from the mainland facility in several sections including section nine where hours of operation are discussed.

Perceived Need: The need for a solid waste ordinance is probably not seriously disputable; 38 M.R.S.A. § 1305 requires municipalities to provide solid waste disposal services. An ordinance to determine the parameters of this service can only benefit town employees responsible and the public safety and convenience. The cost of operating the transfer station is a major budget item; an ordinance could help to plan and control those costs.

Benefits: Considerable logistics are required to run a solid waste facility especially one located on an island. An ordinance with clear guidance will aid budgeting and planning for efficient, cost-effective operations. An ordinance can also assure that public health and safety are protected and that practices are fair and just for all users. It can define services covered by taxes and pay-as-you-go services.

Risks: An ordinance that is too specific may risk becoming obsolete (and so ignored) since solid waste technology and market can change rapidly.

Research: Eli Boisson researched solid waste ordinances from the towns of: Long Island, Vinalhaven, Freeport and Stonington and compared them to the existing ordinance. A couple points taken from his work are:

1. Cumberland addressed waste haulers and other towns reviewed tended not to,
2. Cumberland had more extensive definitions than the other towns reviewed,
3. Permits and fees were difficult to compare to other towns.

The current transfer station operator was interviewed resulting in the following information:

1. The fees are those that we had at the time of session (sheets provided),
2. judgment is occasionally exercised in assessing fees for unlisted items and partial loads,
3. A designated area for swap-items would eliminate some clutter around the compactors,
4. toilet facilities are inadequate,
5. There is no system for assigning and tracking facility keys,

6. The use of the facility by Chedemption has sometimes presented challenges,
7. Off-hours dumping or facility access is occasionally a problem especially in the brush pile.

Ordinances were also reviewed from the Maine towns of: Bridgton, China, Dresden, Frye Island, Hollis, North Berwick, Poland and Sebago. Topics defined in varying degrees in these ordinances include:

1. Purpose: (fair cost sharing by users and health, safety & environment, recover value)
2. Authorize selectmen to adopt written rules; includes specific areas for rules
3. Variances (allowed on any specific provision by municipal officers) (only China)
4. Waste becomes "property of the town" (only Bridgton)
5. Administration (municipal officer, public works, Administrator/Manager)
6. Enforcement (police officer, municipal officers, Public Works, attendant)
7. Defining acceptable/non acceptable wastes (varying specificity)
8. Licensing Commercial waste haulers bringing trash to the facility
9. Permits -Stickers-Tokens: revocable and suspendable
10. Hour of operation

MDEP rules Chapter 402 (Transfer Station and Storage Sites for Solid Waste) were also reviewed.

Another important State Statute is 38 M.R.S.A. §1310-U. This section doesn't set minimum standards that a municipality can make more stringent but set standards which a municipality can administer but not make more stringent. For example, we are required to accept Universal Waste and cannot pass an ordinance to refuse it, however we can pass an ordinance that changes a fee for it or requires certain handling standards. It also states: *"A municipality adopting an ordinance under this section shall forward a copy of the ordinance to the commissioner within 30 days of its adoption"*

Recommended Action: The philosophy in drafting the currently proposed ordinance is to document the way the landfill currently operates and provide the Board of Selectmen with enough authority to react to changing needs, technology and practices. The recommendation is to approve the draft ordinance and associated rules for adoption at a future Town Meeting.

SOLID WASTE FACILITY ORDINANCE

**of the Town of Chebeague Island
MAINE**

Adopted by the Town Meeting:

Effective:

Attest:

Town Clerk

Seal:

SECTION 101. TITLE

This Ordinance shall be known as and may be cited as the “SOLID WASTE FACILITY ORDINANCE in the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance” or “this chapter”.

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to assure public health and safety while complying with 38 M.R.S.A. § 1305 which requires a municipality to accept locally generated waste. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001 and 38 M.R.S.A. § 1310-U.

SECTION 103. DEFINITIONS

- a) **Solid Waste Facility.** The term ‘Solid Waste Facility’ or ‘the Facility’ shall refer to the waste transfer station centrally located on the Parcel identified on Tax Map I6 as Lot 6. For the purpose of this ordinance the Facility includes the closed landfill, the brush pile and wood chip area and the fenced in area on this Parcel. It does not include but not the wooded area beyond. It does not include the Public Works Garage and Yard on the Northerly portion and the Parcel.
- b) **Waste Items.** Any item intended to be discarded including items considered as waste, refuse and debris within 38 M.R.S.A. § 1303C.
- c) Definitions in 38 M.R.S.A. § 1303C and 29-A M.R.S.A. shall apply to this chapter.
- d) Any words not otherwise defined therein shall be given their common and ordinary meaning.

SECTION 104. WASTE AREAS

The Facility shall have the following designated areas to accept specific waste streams:

Waste Type	Containment	Fee?
Household/Small Business Waste	Compactor	No
Recycle	Compactor	No
Construction and Demolition	Container	Yes
Metal Goods	Container	Yes
White Goods	Area	Yes
Universal Waste	Covered Area	Yes
Brush Pile	Area	Yes

It is a violation of this ordinance to dispose of waste items in any area within the municipality not specifically designated for that item. Each waste item may be considered a separate violation under this chapter.

The Board of Selectmen may adopt rules to specify acceptable and not acceptable waste items for each of the waste areas in compliance with 38 M.R.S.A. § 1305.

The attendant may temporarily refuse any of the above waste items if areas or containers are full. The attendant may also temporarily provide alternate methods of handling these waste items as long as public safety is protected and these practices do not conflict with State rules and regulations.

SECTION 105. FEES

The Board of Selectmen may, in accordance with Ch 11 Art. II Sec. 109(S) of the Town Code of Ordinances, establish a fee schedule for waste items in areas where a fee may be set under Section 104 of this chapter.

SECTION 106. OTHER AREAS

The Board of Selectmen may define other areas of the Facility for the purposes listed in this Section and create rules for their operation including agreements with island organizations or businesses to operate these services for the benefit of the public as long as they do not interfere with the uses defined in other sections of this chapter.

- a) Returnable bottle Area.
- b) Composting Area.
- c) Swap Area.

SECTION 107. BULKY WASTE

The Town shall designate at least one weekend between June 1st and September 1st each year as “Bulky Waste Weekend” and advertise it to the community in advance. During regular operating hours items too large for the compactors may be brought to the Facility where Public Works employees will accept them and place them in waste containers for transport off-island. During this period no disposal fees are imposed. At other times these items may be brought to the facility but they will be subject to any fees set for construction and demolition debris.

The Board of Selectmen may suspend this service for a year if it finds insufficient demand for the service.

SECTION 108. SPECIAL AND HAZARDOUS WASTE

The Town shall designate at least one weekend between June 1st and September 1st each year as “Hazardous Waste Weekend” and advertise it to the community in advance. The Town will contract with a licensed hazardous waste hauler to collect specific waste items designated as hazardous at the Facility, Public Works Garage or other designated site and transport it off-island to a suitable facility.

The Board of Selectmen may suspend this service for a year if it finds insufficient demand for the service.

SECTION 109. MOTOR VEHICLE WASTE OIL

Motor vehicle waste oil may be collected at the Public Works Garage for the purpose of burning in the buildings heating plant. Public works employees may refuse to accept waste oil if there is inadequate storage or it cannot be reused in the heating plant for any reason. Waste oil will be safely and securely stored at the Public Works Garage prior to reuse.

SECTION 110. HOURS OF OPERATION

The Board of Selectmen may adopt rules setting the regular hours of operation for the Facility except that the Facility must open for at least two days per week during the winter season and at least three days per week in the summer season excepting holidays. The hours of operation must be clearly posted at the Facility entrance. The Board of Selectmen may temporarily close the Facility for Town Meeting, cemetery services or any reason that might reasonably endanger or inconvenience public health, safety and wellbeing.

SECTION 111. ADMINISTRATION AND ENFORCEMENT

This Ordinance shall be administered by the Town Administrator and may be enforced by the Board of Selectmen, Code Enforcement Officer or Law Enforcement Officer with jurisdiction in the Town of Chebeague Island.

SECTION 112. PENALTIES

Any violation of this Ordinance shall be a civil infraction subject to a fine of \$100. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of prosecution and reasonable attorney fees and costs.

SECTION 113. AMENDMENTS

This Ordinance may be amended by Town Meeting at any properly noticed meeting.

SECTION 114. SEVERABILITY

In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

Town of Chebeague Island – Board of Selectmen Policy Statements

DRAFT 01**Solid Waste Facility Policy****Operating Rules and Regulations**

1. Purpose and Authority

The Town of Chebeague Island adopted a Solid Waste Facility ordinance on _____. The ordinance authorizes the Board of Selectmen to create and maintain certain rules and regulations. The purpose of this document is to create operating rules and regulations in accordance with the Solid Waste Facility ordinance and applicable Maine Department of Environmental Protection rules and regulations.

2. Enactment

This policy is enacted upon a majority vote of the Board of Selectmen (The Board) and may be amended or repealed from time to time by the Board or by Town Meeting.

3. Review and Amendments

It is the policy of The Board that this document is reviewed annually by the solid waste facility attendant and the Town Administrator and recommendations considered by The Board.

4. Hours of Operation

The regular operating hours for the solid waste facility are in the table below. The attendant may close the facility without warning in cases where public safety may be compromised. The Board of Selectmen, at any public meeting, may temporarily close the facility for special occasions as they deem appropriate.

	WINTER	SUMMER
Wednesday	1:30 pm to 4:00 pm	1:30 pm to 5:00 pm
Friday	(Not Open)	1:30 pm to 5:00 pm
Saturday	9:00 am to 4:00 pm	9:00 am to 5:00 pm
Sunday	9:00 am to 4:00 pm	9:00 am to 5:00 pm

No individuals, town employees, contractors or others may bring waste to the facility or remove items other than during operating hours.

5. Designated Waste Areas

The enabling ordinance designates separate areas for different waste items. This allows the town to optimize the handling of waste reducing the cost to the tax payers. The table below defines representative items for each stream. The

Town of Chebeague Island – Board of Selectmen Policy Statements

DRAFT 01

attendant is ultimately responsible for directing a particular item to the proper area.

Area	Type	Fee allowed	Acceptable Waste (Representative list)
Waste	Compactor	No	Regular waste produced by households or small commercial enterprises. No universal or hazardous waste should be placed in the waste compactors. Each compactor container can accept a limited number of Vehicle tires. Tires are placed in a separate staging area and the attendant will place them in the compactor at appropriate times.
Recycle	Compactor	No	Newspapers & Inserts, Magazines, Mail & Catalogs, Paper Bags, Office Paper & Envelopes, File Folders, Wrapping Paper, Phone Books, Hard Cover Books, Paper Plates (clean), Milk & Juice Cartons, Drink Boxes & Aseptic Containers, Cardboard Boxes, Cereal Boxes, Gift Boxes, Pizza Boxes, Water Bottles, Milk Jugs, Detergent Bottles, All containers marked with a #1-#7 (except Styrofoam), Plastic Grocery/ Shopping Bags marked with a #2 or #4, Tin Cans, Aerosol Cans (empty), Aluminum Cans/Foil, Pots & Pans, All glass Bottles & Jars
Construction and Demolition	Container	Yes	Debris created during construction, demolition or remodeling except for items required to go into the universal, hazardous, metal or white goods waste stream.
Metal Goods	Container	Yes	Scrap metals are recycled.
White Goods	Area	Yes	Appliances such as refrigerators, freezers and air conditioners.
Universal Waste	Area	Yes	CRTs—Cathode Ray Tubes (computer monitors, TVs), <u>Fluorescent lamps</u> (also mercury vapor, neon, metal halide, HID and HPS, Mercury-containing thermostats, Intact PCB—containing lighting ballasts), <u>Batteries</u> (Ni-Cd, metal hydride, lithium... and including all <u>vehicle batteries</u>), Mercury thermometers.
Brush Pile	Area	No	

6. Special and Hazardous Waste Collection

The Town of Chebeague Island designates a weekend once every year or two where hazardous waste (particularly liquids) can be brought to the facility and are collected by a licensed hazardous waste transporter who transports them off island.

Hazardous waste includes: Oil-based Paints, Resins & Adhesives, Oil, Gasoline, Kerosene, Antifreeze, Windshield washer fluid, Solvents & thinners, Pesticides & herbicides, Acids.

Town of Chebeague Island – Board of Selectmen Policy Statements

DRAFT 01

Also accepted as household hazardous waste are: NiCd batteries, Fluorescent lamps, Mercury & mercury devices Television & computer monitors and Aerosols.

Adopted on: _____ YES__ NO__ Attested: _____.

Revised on: _____ YES__ NO__ Attested: _____.

November 1, 2010

Ordinance Review Committee Ordinance Proposal

Brought to the Ordinance Review Committee by CICA

Summary:

This proposal asks the Selectmen to review and the Town Meeting to adopt a “Property Assessed Clean Energy” PACE Ordinance for the Town that would allow homeowners in the TOCI to apply to Energy Maine for loans of up to \$15,000 to improve home weatherization and energy efficiency.

Current Status:

The Town has no PACE ordinance now. If it wants the Town’s citizens to be eligible to apply for these State loans, it must adopt such an ordinance.

Description of the Program:

PACE is a \$20 million revolving loan fund created by the 2010 Legislature that is being organized and run by Energy Maine. It is funded by federal stimulus funds from USDOE. Because of a historical quirk, it requires that for residents of a Town to be eligible to apply, the Town Meeting must have adopted a PACE ordinance. However, the program is not administered by the town but by the Efficiency Maine Trust under a contract with the Town. The only obligation that the Town takes on when it adopts the ordinance and contract with EMT is to do the educational publicity about the program. Efficiency Maine is planning to provide materials for that and CICA would be willing to do the publicity. In the next several months EMT will be hiring a “central service master” which will be a bank that will actually make and service the loans. They hope to begin lending money before Christmas.ⁱ

Any homeowner is eligible for the program, regardless of income. EMT requires that the estimated yearly savings from the weatherization work exceed the cost of the loan. The homeowner hires an energy auditor from a list on EMT’s website to do an audit of the house. The owner pays for this (about \$500). The auditor creates a list of the improvements suggested for the house. If the house would have at least 25% energy cost savings from the improvements, then the homeowner can apply for the loan. When the loan is granted the homeowner hires a contractor from EMT’s list. The contractor is given 30% of the loan up front. When the work is finished and a final energy audit is completed satisfactorily, the contractor gets the rest of the contracted amount.

Perceived Need:

Chebeague has many old houses that originally had no insulation and are only moderately weather-tight. Encouraging this kind of not-very-thrilling-but-useful weatherization could help make the energy cost of living on Chebeague somewhat lower.

Town Role:

The Town has no financial or administrative role in the program other than to do educational publicity for it, which CICA is willing to do. The Town incurs no liability in any suits arising out of the work.

Benefits:

The homeowner will save as much or more money from having the weatherization work done as s/he borrowed to do it. EMT hopes that this will help to create widespread availability of energy auditing and weatherization construction. On Chebeague Doug Ross has gone through the energy auditing training and local contractors could do the work if they are listed on EMT's website.

Costs:

Not much to the Town. It incurs no liability. There may be a cost for delaying action in that homeowners in other towns that have already adopted ordinances may get the first round of loan money early on.

Recommended Action:

That the Selectmen review the attached PACE ordinance and administrative contract with EMT. The ordinance is a model and could be tailored to fit the Town's concerns, if there are any. Then the Selectmen would include the ordinance on the next Town Meeting agenda with a recommendation that it be adopted.

Attachments: Model PACE Ordinance
PACE Administration Contract

ⁱ If you have heard of PACE before, then it is useful to understand the history of the program to understand how it works in Maine today:

It began in local communities and by last year had spread to 25 states. A homeowner could borrow money (generated by state or local bond issues) from a revolving loan fund to make energy improvements to their home. The payments on the loan were added as an "assessment" to the homeowner's property tax bill, to be paid back over a number of years.

This created major opposition from Fannie Mae and Freddie Mac, because if the homeowner defaulted on the house and the loan, the municipality's tax lien had higher priority for payment than the mortgage lien. This opposition brought programs in most states under a cloud. When the Federal government made available \$30 million in stimulus money for a DOE/CDBG PACE program, most states could not apply.

Maine adopted the program in the last Legislature. Because of the opposition of the mortgage industry to the property tax assessment payment mechanism, the loans in Maine's legislation are simply loans, not assessments. So Maine qualifies for a Federal stimulus/PACE grant to create a revolving loan fund and becomes the demo program for the "new" PACE.

MODEL PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

Administration by the Efficiency Maine Trust

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

§ XX-1 Purpose

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

§ XX-2 Enabling Legislation

The City/Town enacts this Chapter/Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

ARTICLE II - TITLE AND DEFINITIONS

§ XX-3 Title

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

§ XX-4 Definitions

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

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

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

2. Municipality. “Municipality” shall mean the City/Town of _____
_____.

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

4. PACE assessment. “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

-
- 5. PACE district.** “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.
- 6. PACE loan.** “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.
- 7. PACE mortgage.** “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.
- 8. PACE program.** “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.
- 9. Qualifying property.** “Qualifying property” means real property located in the PACE district of the Municipality.
- 10. Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.
- 11. Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE III - PACE PROGRAM

- 1. Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.
- 2. Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or

appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

1. Standards adopted; Rules promulgated; model documents. If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE VI – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
- ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Municipality, or the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. Assistance and Cooperation. The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2. Liability of Municipal Officials; Liability of Municipality

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

Town Meeting/City or Town Council Question:

Shall the _____ City Council/Town Council/Town of _____ enter into a “Property Assessed Clean Energy (PACE) Program Agreement” with the Efficiency Maine Trust and authorize the City/Town Manager to sign the same?

**PROPERTY ASSESSED CLEAN ENERGY (PACE) ADMINISTRATION
CONTRACT**

THIS Property Assessed Clean Energy (PACE) Administration Contract (the “Contract”) is entered into this ___ day of _____, 20___, by and between _____, a municipal corporation duly organized and existing under the laws of the State of Maine whose mailing address is _____, _____ (the “**Municipality**”) and the **Efficiency Maine Trust**, a legal entity and instrumentality of and a body corporate and politic under the laws of the State of Maine (the “**Trust**”). The foregoing also are referred to herein collectively as the “**Parties**” or singly as “**Party**.”

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE Program, so that owners of qualifying property can access financing for energy saving improvements to their properties located in the municipality; financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE Program; and

WHEREAS, the Municipality has adopted a PACE Ordinance; and

WHEREAS, the Parties wish to establish their respective responsibilities in the administration of the PACE Program.

WITNESSETH:

NOW, THEREFORE, for and in consideration of the covenants and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **DEFINITIONS.** Capitalized terms used in this Contract shall have the meanings given them in 35-A M.R.S.A. §10153 unless otherwise specified herein. In addition, these terms are defined as follows:

1.1. **PACE agreement.** "Pace Agreement" means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE Mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

1.2. **PACE District.** "PACE District" means the area within which the Municipality establishes a PACE Program under this Contract, which is all of that area within the Municipality's boundaries.

1.3. **PACE Loan.** "PACE Loan" means a loan made to the owner(s) of a Qualifying Property for an Energy Saving Improvement.

2. **TRUST'S RESPONSIBILITIES.** The Trust shall, itself or through its authorized agents:

2.1. **Administration.** Administer the functions of a PACE Program which administration shall include, without limitation:

- A. the Trust will enter into PACE Agreements with owners of Qualifying Property in the Municipality's PACE District;
- B. the Trust, or its agent, will create and record a Notice of the PACE Agreement in the appropriate County Registry of Deeds to create a PACE Mortgage;
- C. the Trust, or its agent, will disburse the PACE Loan to the property owner;
- D. the Trust, or its agent, will send PACE Assessment statements with payment deadlines to the property owners;
- E. the Trust, or its agent, will be responsible for collection of the PACE Assessments;

F. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the PACE Assessment;

G. the Trust or its agent, promptly shall record the discharge of a PACE mortgage upon full payment of the PACE loan;

H. the Trust, or its agent, will be responsible for management of federal grant funds; and

I. the Trust, or its agent, will ensure the collection of data required to quantify carbon savings and to facilitate access to and eligibility for voluntary carbon markets, for federal grants for energy efficiency and for other incentive programs that support Energy Saving Improvements.

2.2. Terms and Conditions. Pursuant to 35-A M.R.S.A. §10154, the Trust may establish terms and conditions under which municipalities and property owners may participate in a PACE Program established thereunder, and the Parties agree that they, the PACE Program hereunder and this Contract are subject to those terms and conditions as amended from time-to-time.

3. MUNICIPALITY'S RESPONSIBILITIES.

3.1. Education and Outreach Programs. The Municipality agrees to adopt and implement an education and outreach program so that owners of property in the Municipality are made aware of home energy saving opportunities, including the opportunity to finance Energy Saving Improvements with a PACE Loan.

3.2 Conformity with Home Energy Savings Program. The Municipality agrees to conform its PACE Program to the requirements contained in the Home Energy Savings Program.

3.3. Acceptance and Disbursement of Funds. The Municipality agrees to accept PACE funds from the Trust and to disburse PACE funds back to the Trust as needed to satisfy the conditions of the federal grants and to allow the Trust to fund and administer a uniform system of municipal PACE Programs throughout the State.

3.4. Assistance and Cooperation. The Municipality agrees to cooperate with the Trust in the administration of the Municipality's PACE Program, including but not limited to, providing information about applicant properties including property tax payment and lien status, taxable value of residential properties in town, and providing reasonable and necessary aid to the Trust for required data collection, recordkeeping and reporting functions relative to the PACE Program in the PACE District, and providing reasonable and necessary support to the Trust's PACE loan, PACE Assessment, and billing and collection functions.

3.5. Conformity. If standards or rules and regulations are adopted by any State or federal agency subsequent to the Municipality's adoption of a PACE Ordinance or participation

in a PACE Program and those standards or rules and regulations substantially conflict with the Municipality's manner of participation in the PACE Program, the Municipality, should it desire to continue its participation in the PACE Program, will be required to take necessary steps to conform its participation to those standards or rules and regulations.

4. TERM.

4.Error! Main Document Only.. This Contract is for a period of three (3) years and shall automatically be renewed for additional periods of three (3) years unless either Party provides the other with ninety (90) days' advance written notice of intent not to renew this Contract.

5. TERMINATION.

5.Error! Main Document Only.. Either Party may terminate this Contract for convenience by providing the other with ninety (90) days' advance written notice of termination. On and after the date of termination, the Municipality no longer will have a PACE Program administered by the Trust except for those PACE Loans already secured by PACE Mortgages as of the date of termination.

6. LIABILITY.

6.1. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE Program established under this Contract, including, without limitation, claims for or related to uncollected PACE Assessments.

6.2. Other than the fulfillment of its obligations specified in a PACE Agreement, the Municipality has no liability to a property owner for or related to Energy Saving Improvements financed under a PACE Program.

7. MISCELLANEOUS PROVISIONS

7.1 Notices. All notices, demands or other communications made pursuant to this Contract shall be in writing and shall be sent by (i) registered or certified United States mail, postage prepaid, (ii) by overnight courier, or (iii) by facsimile. Such notice shall be deemed effective upon delivery addressed as follows:

To the Municipality:

To the Trust:

Efficiency Maine Trust
 101 Second Street
 Hallowell, ME 04347
 Attention: _____

7.2 Entire Agreement, Modifications. This Contract constitutes the entire agreement of the Parties, and neither Party shall be bound by any statement or representation not contained herein. Except as provided herein, this Contract cannot be changed, amended or modified, except by another agreement in writing signed by all Parties hereto or by their respective successors in interest.

7.3 Headings. The section headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or interest of any provisions of this Contract.

7.4 Severability. If any section, term, covenant, or condition of this Contract or the application thereto to any person or circumstances shall, to any extent be illegal, invalid or unenforceable because of judicial construction, the remaining sections, terms, covenants, and conditions of this Contract, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each section, term, covenant, or condition of this Contract shall be valid and be enforced to the fullest extent permitted by Law.

7.5 Governing Law, Remedies. This Contract shall be governed by and construed in accordance with the laws of the State of Maine. Except as otherwise agreed by the Parties in writing, all disputes, claims, counterclaims and other matters in question between the Municipality and the Trust arising out of or relating to this Contract shall be decided by a Maine court of competent jurisdiction.

7.6 Assignment; Successors and Assigns. This Contract may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably conditioned, delayed or withheld. This Contract shall benefit and be binding upon the Parties hereto and their respective permitted successors and assigns.

7.7 Non-Waiver. Except as expressly provided in this Contract, the failure or waiver, or successive failures or waivers on the part of either Party hereto, in the enforcement of any paragraph or provision of this Agreement shall not render the same invalid nor impair the right of either Party hereto, its successors or Contract permitted assigns, to enforce the same in the event of any subsequent breach thereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Property Assessed Clean Energy (PACE) Administration Contract, to be executed by their duly authorized representatives as of the date first set forth above.

MUNICIPALITY

By: _____

Signature

Print Name

Its: _____ (Title)

EFFICIENCY MAINE TRUST

By: _____

Signature

Print Name

Its: _____ (Title)

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To: Board of Selectmen
From: John Wilson and Herb Maine, (Ordinance Review Committee)
Cc: Eric Dyer
Date: 01/05/2011
RE: Building Codes; Adoption and Enforcement Ordinance

Current Status: The existing ordinance lacked any mention of solid fuel stoves or outdoor wood-fired boilers. The existing solid fuel ordinance is a cumbersome 13 page document held over from Cumberland that still refers to the Town of Cumberland, and is curiously titled the “Soil Fuel Safety Ordinance”

Perceived Need: Chebeague needs a new, streamlined building codes ordinance that is more island-relevant, and also covers the installation and use of solid fuel stoves and outdoor wood-fired boilers, the latter currently not covered by any town ordinances or regulations. The primary change to the existing building code ordinance is that it now also covers solid stoves and outdoor wood-fired boilers. Some administrative sections were added to define the permit, inspection, and enforcement processes. This new ordinance would replace the existing building codes ordinance and the existing solid fuel safety ordinance by modifying and combining them.

Benefits: The solid fuel sections of the new ordinance rely on standards set by the National Fire Safety Association (NFPA) and the Environmental Protection Agency (EPA), standards that are accepted by most of the municipalities of Maine, the state itself, and nationally. All building code organizations’ standards and their “succeeding standards” are referred to in the ordinance; as they are subject to periodic revision, the ordinance thereby obviates the need for revision and subsequent re-approval by Town Meeting and will remain up to date and consistent with standards recognized and applied throughout the state and the nation.

Note that while there are currently only two existing outdoor wood-fired boilers (OWBs) on the island, there have been numerous examples nationally of harm to neighbors from emissions from OWBs. Permitting and regulation of new installations of OWBs will provide guidance to help prevent similar situations developing on Chebeague.

The addition of the administrative sections will help clarify the process for permit issuance, fee assessment, inspection, enforcement, and record-keeping.

Risks: The risk in regulating the installation of indoor solid fuel appliances and OWBs is that it may engender elevated installation costs. The risk in not doing so is that non-regulation may engender an elevated risk of fire and/or emissions harm that endanger life and property, not only of residential owners, but of neighbors and public safety personnel as well.

Research: Towns throughout Maine have either ordinances that specifically address solid fuel appliances and/or OWBs, or have incorporated regulations into their building codes. Many (including Cumberland, Falmouth, Newry, Scarborough) have directly adopted, or refer specifically to the standards in the NFPA 211, as done in the proposed ordinance. Newry, in fact, has done so within the text of their building codes; the entire section dealing with wood stoves and other solid fuel equipment is only 37 words long! Many towns use and/or refer to Maine's Office of State Fire Marshal publication, "Recommended Standards for the Installation of Woodburning Stoves" which is NFPA 211 verbatim.

OWBs are a somewhat different story. East Millinocket is one of the few towns that has a specific, and somewhat stringent, ordinance addressing OWBs, which it passed in 2007 after a slew of complaints over the proliferation of the units and their emissions. The Maine State DEP has adopted the EPA regulations and thereby dictates what can and cannot be installed as well as stack heights and property line (or dwelling) setbacks. It is to be noted that neither of the two existing OWBs on the island would come close to meeting the EPA standards either in terms of the equipment used or the installations. It is assumed that these installations, so long as they are not substantially modified, would be grandfathered.

Recommended Action: While the regulating mechanisms within the proposed ordinance for solid fuel equipment are relatively demanding when compared to common practices of the past, the realities of the present cannot be ignored. Ignoring state DEP mandates re installation of OWBs could, in the long run, be costly for the owner and the Town in the event of retrofitting or potential civil suits. NFPA 211 standards are commonly accepted by the insurance industry, so installations in violation of these standards could endanger a homeowner's insurability, as well as endangering lives.

It is therefore recommended that this ordinance be adopted, replacing the old building codes ordinance and the old solid fuel safety ordinance. For the sake of simplicity, it is further recommend that the application form for building permits be slightly modified to include solid fuel appliances, so that a standard written record of application and inspection be maintained.

Also, the Board should consider whether or not a separate permit fee for solid fuel equipment should be applied.

BUILDING CODES; ADOPTION AND ENFORCEMENT ORDINANCE

**of the Town of Chebeague Island
MAINE**

Adopted by the Town Meeting:

Effective:

Attest:

Town Clerk

Seal:

SECTION 101. TITLE

This ordinance shall be known and may be cited as the “Building Codes; Adoption and Enforcement Ordinance of the Town of Chebeague Island” hereinafter referred to as "this Ordinance".

SECTION 102. PURPOSE

The purpose of this ordinance is to protect life and property from hazards incident to improper construction, installation, modification, or use of structures and appliances as specified in Section 103 of this Ordinance. This Ordinance is adopted pursuant to 30-A M.R.S.A. §3001.

SECTION 103. SCOPE OF ORDINANCE

This ordinance shall apply to the construction, installation, modification, or use of residential, commercial, and public structures, and any associated electrical equipment, plumbing, appliances designed or used to burn solid fuel (wood, coal, or any combustible solid matter) for the purpose of heating or cooking, and subsurface wastewater disposal structures or equipment as covered in the codes and standards referred to in Sections 104 – 111 of this Ordinance.

SECTION 104. ADOPTION OF THE MAINE MODEL BUILDING CODE.

The *Maine Model Building Code*, including the *International Code Council International Residential Code* and the *International Building Code*, is adopted by the Town of Chebeague Island to establish regulations governing the construction and repair of residential and commercial structures.

SECTION 105. ADOPTION OF THE NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE.

The National Fire Protection Association’s *Life Safety Code* (2006) is adopted by the Town of Chebeague Island to establish the construction, protection, and occupancy requirements needed to minimize threat to life from fire and related dangers including smoke, fumes, or panic.

SECTION 106. ADOPTION OF THE NATIONAL FIRE PROTECTION ASSOCIATION SOLID FUEL SAFETY STANDARDS.

The *National Fire Protection Association’s (NFPA) Standard 211, “Chimneys, Fireplaces, Vents, and Solid Fuel Burning Appliances, 2003 Edition* is adopted by the Town of Chebeague Island. An installation of solid fuel burning appliances shall be deemed proper when it conforms to the standards contained therein. These standards may be superseded by manufacturers’ specifications for installation of their UL-listed appliances.

SECTION 107. ADOPTION OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S OUTDOOR WOOD-FIRED BOILER STANDARDS.

The United States Environmental Protection Agency's Outdoor Wood-fired Hydronic Heater (OWHH) Phase II Program, released October 23, 2008, as adopted by the Maine Department of Environmental Protection, is adopted by the Town of Chebeague Island. The installation and usage of outdoor solid fuel burning furnaces or boilers used for heating shall be deemed proper when it conforms to the standards contained therein.

SECTION 108. ADOPTION OF THE NATIONAL FIRE PROTECTION ASSOCIATION NATIONAL ELECTRICAL CODE.

The National Fire Protection Association's *National Electrical Code* (2005) and *ANSI C2-2002 National Electrical Safety Code* is adopted by the Town of Chebeague Island to regulate the installation of electrical conductors, equipment and raceways, signaling and communications conductors, equipment and raceways, and optical fiber cables and raceways in all property, buildings, and structures. These codes cover all installations used by the electric utility that are not an integral part of a generating plant, substation or control center.

SECTION 109. ADOPTION OF THE MAINE STATE INTERNAL PLUMBING CODE.

The *Maine State Internal Plumbing Code* is adopted by the Town of Chebeague Island to regulate plumbing on the island, and all plumbing installed on the island and all permits issued shall conform to the rules and regulations of the state department of human services regarding plumbing issued under authority conferred by state law.

SECTION 110. ADOPTION OF THE MAINE SUBSURFACE WASTE WATER DISPOSAL RULES.

The *Maine Subsurface Waste Water Disposal Rules* are adopted by the Town of Chebeague Island to establish the minimum design criteria for subsurface wastewater disposal to assure environmental sanitation and safety.

SECTION 111. SUCCESSOR CODES, REGULATIONS, AND STANDARDS

Codes, standards, and regulations specified in Sections 104 – 110 shall remain in effect until such time as they are replaced by their sponsoring agencies or organizations with revised

versions, at which time the Town of Chebeague Island shall be considered to have adopted said revisions unless it specifically stipulates otherwise by amending this ordinance.

SECTION 201. PERMITS AND FEES

Any person intending to construct, install, or modify structures, appliances, or other entities covered under the codes and standards listed in Sections 104 - 111 of this ordinance must obtain the necessary permit form from the Town Clerk and submit it to the Code Enforcement Officer for approval before construction, installation, or modification commences. A satisfactory inspection that requirements have been met shall be completed before any structure or appliance is put into use.

Permit fees, if any, are as set forth in the Board of Selectmen in accordance with Ch 11 Art. II Sec. 109(S) of the Town Code of Ordinances.

SECTION 202. INSPECTION AND ENFORCEMENT

The Code Enforcement Officer of the Town of Chebeague Island shall have responsibility for conducting inspections and enforcing the Town of Chebeague Island Building, Fire Prevention, Electrical, Plumbing, Solid Fuel Safety, Property Maintenance, and Wastewater Disposal codes, regulations, and standards as adopted pursuant to Sections 104 – 111 of this Ordinance.

SECTION 203. ADMINISTRATION

Written and/or electronic records of permits, inspections, and approvals shall be maintained by the Town Clerk.

SECTION 204. AMENDMENTS

This Ordinance may be amended by Town Meeting.

SECTION 205. SEVERABILITY

Should any portion of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining portions shall remain in full force and effect.