

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 4, 2015
TOWN COUNCIL WORKSHOP – 6:00 P.M.
REGULAR MEETING – 7:00 P.M.

NO NEW BUSINESS SHALL BE TAKEN UP AFTER 10:00 P.M.

- Item 1.** Call to Order.
- Item 2.** Pledge of Allegiance.
- Item 3.** Roll Call.
- Item 4.** General Public Comments.*
- Item 5.** Minutes: January 21, 2015 – Regular Meeting.
- Item 6.** Adjustment to the Agenda.
- Item 7.** Items to be signed: a. Treasurer's Warrants.
- Item 8.** Non Action Items.
 - a. Final update from the Wentworth Building Committee.
 - b. Presentation on the MMA's Report on State/Municipal Partnership.

***Procedure for Addressing Council** [Posted in Chambers.]

Order No. 15-003, 7:00 p.m. Public Hearing and second reading on the proposed amendments to Chapter 702 – Town of Scarborough Street Opening Ordinance.

Order No. 15-005, 7:00 p.m. Public Hearing and second reading the proposed amendments to the Chapter 1301, the General assistance Ordinance, pursuant to Title 22, M.R.S.A §4305 (4).

OLD BUSINESS: None at this time.

NEW BUSINESS:

Order No. 15-007. First Reading and refer to the Planning Board, the proposed amendments to Chapter 405-the Scarborough Zoning Ordinance, establishing a new Section VIIG. Historic Preservation Provisions - which would create a local list of historic properties and provide for zoning and building code incentives for preservation of these historic resources.

Order No. 15-008. Act on the names posted to the various Committees/Boards at the Town Council meeting of January 21, 2015, by the Appointments Committee.

Order No. 15-009. Act on the request from the Shellfish Commission to approve the Allocations of Shellfish Licenses for 2015.

Order No. 15-010. Act on the request to approve the 2015 Town Council Goal.

Item 9. Standing and Special Committee Reports and Liaison Reports.

Item 10. Town Manager Report.

Item 11. Council Member Comments.

Item 12. Adjournment.



STATE-MUNICIPAL PARTNERSHIP PROGRAMS: PAST, PRESENT AND FUTURE



Maine Municipal Association



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January 2015

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Foreword

This report evaluates systems established in Maine law that fall in the general category of state-local partnership programs. For this purpose, a “partnership program” is a state law that compels municipalities to conduct certain activities or provide specific services for the general good, as well as related systems established in law to support or supplement those required activities.

The review involves examining the structure and intention of each partnership program when it was first established and evaluating how the Legislature has managed and further developed the program over time. An attempt is made in each case to judge whether the program under review was created by the Legislature as a true partnership program and been well maintained as such over time or, instead, was created and maintained as a simple unfunded state mandate. In some cases, the program has evolved over time from a partnership program to more of an unfunded state mandate or broken financial commitment. In other cases, the reverse is true and a pure unfunded state mandate has been converted into a functioning state-local collaboration.

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MMA employee, Lisa Rigoulot, captured this image of Mt. Katahdin's infamous Knife Edge ridge.

Executive Summary

The review of the 20-plus state-municipal partnership programs in this report yields four principal findings.

Historical Reliance. The reliance on municipal government to provide programs and services for the general good of the state is deeply embedded in Maine's history. A surprising number of the programs and services the towns and cities are required to provide have been mandated by state law from the earliest days of the 19th and 20th Centuries. A second major expansion in required municipal services occurred in the decades of the 1970s and 1980s. That long-standing reliance indicates that Maine's lawmakers recognize the inherent capacity of municipal government to deliver an array of public services more efficiently and effectively than larger, more centrally located governments, at the same time providing the greatest level of accountability to the public being served.

Elements of partnership. As these mandated programs have been established in law and maintained in statute by the Legislature over time, the discernible elements of a partnership relationship are identified as the presence (or absence) of the following:

- Program-specific financial support (e.g., 50% state funding for sand-salt sheds).
- Generalized financial support across functional areas (e.g., the 43-year-old Municipal Revenue Sharing Program).
- Tools established in statute to assist in the completion of the task (e.g., laws enacted to assist in the enforcement of mandatory land use regulation).
- State supplied technical assistance and administrative support (e.g., much of the functional purpose of the Maine Waste Management Agency in the late 1980s, as short-lived as it was).
- Direct and comprehensive state agency collaboration (e.g., the structure of the comprehensive planning program, at least for a short time in the 1980s).
- The stability and predictability of state-level support (e.g., the state's unwavering commitment to its General Assistance reimbursement obligations for nearly four decades reflects stability; the nearly annual restructurings of the Homestead property tax exemption that occurred between 2004 and 2009 reflect the opposite).

Partnership ebb-and-flow. Taking these elements of partnership into account, the historical review and assessment of each program reveals a conspicuous ebb-and-flow in tangible legislative support for the programs and services municipalities are required to perform for the general good of the state. Periods of advance are followed by periods of retreat. Not surprisingly, the periods of ebb tide tend to follow economic recessions. The periods of full tide tend to return, at least partially, when the economy recovers.

Prior to the imposition of the state-collected "broad-based" sales and income taxes in the mid-20th Century, the programs required of municipal government were mandated in the softest possible ways. There was an obligation to provide for the basic needs of the impoverished, for example, but how that was accomplished was not dictated by law. Each town needed to have an animal impoundment facility, but the details of compliance were left up to the community.

In the 1970s, with the broad-based taxes flowing to the state's treasury, the mandated programs became much more "top-down", sharper, based on standards and legally enforceable. Shoreland zoning, subdivision review, solid waste management...the mandates were strict, the penalties for noncompliance were stiff, the operations of municipal government were required to expand, and the property taxpayers were handed the tab. In an obvious exchange for that change in relationship, the Municipal Revenue Sharing Program was established.

Buoyed by the strong economy in the 1980s, the state's interest in the strongest possible partnerships with local government reached its zenith. Comprehensive planning, solid waste management and the construction of sand/salt sheds to protect the environment all involved significant state financial participation and state agency collaboration, but then those programs collapsed with the recession of the early 1990s.

Over the last 25 years, the economy has been on a roller coaster, going deeply negative and then recovering in a cyclical fashion over 8-10 year periods. Each successive cycle, it seems, has resulted in greater reductions in generalized state financial support for the partnership programs, scaled-back state technical assistance, weakened state agency collaboration, and sharply decreased programmatic stability and predictability.

The revenue sharing compact. Only a few of the state-municipal partnership programs reviewed in this report enjoy any program-specific state financial support. The state reimburses municipalities for at least 50% of their direct General Assistance expenditures. The Local Road Assistance Program is a Highway Fund equivalent to the Municipal Revenue Sharing Program for road and bridge maintenance purposes. The sand-salt shed program was financed 50% by state government. The other 18 partnership programs evaluated in this report are provided by the municipalities, at the demand of state government, without any significant state financial contribution. Those mandates are financed by Maine's property taxpayers.

The complete legislative record suggests that there are four major public policy underpinnings that support the Municipal Revenue Sharing Program:

- To recognize the role of municipal government in nurturing, supporting and growing local economies, from which all state revenue is derived.
- To mitigate the tax shifts and increased tax rates created by property tax exemptions enacted by the Legislature.
- To implement an obvious goal of the Legislature to reduce the state's overreliance on the property tax to pay for governmental services, particularly in financially stressed communities and those experiencing a high regional demand for services.
- And, to recognize the breadth of the programs and services the towns and cities are required to provide for the general good of the state and lend a hand with their expense.

All four foundation stones that support the revenue sharing program are important and given treatment in this report. The primary focus, however, is on the issue of relationship, and how the revenue sharing program comes around again and again, in almost every analysis, as the glue that cements the state-municipal partnership.

Programs of the 19th Century

Elections

"Pauper Laws" (General Assistance)

Animal Control

ELECTIONS

Municipalities have always been and remain the primary administrators of all elections in Maine – local, regional, state and federal – and it is hard to conceive of a more efficient or cost-effective way to manage such a task. Before Maine law was organized into various titles in the mid-1950s, the first several chapters in the law books included six that governed the administration of all elections by municipal officials. Those 80 pages of statute were then, just as they are now, extremely focused on the fine details of elections management. Over time, these procedures have undergone, and will undoubtedly continue to undergo, careful and detailed biennial amendment.

The election mandate precedes the creation of the State of Maine. Because of the need to rely on the municipalities of New England to perform almost all governmental functions in the 17th and 18th Centuries, the concept of "unfunded state mandate" can hardly be applied to the earliest laws governing social organization in colonial America. Municipalities were given the task as a matter of simple necessity; no other organized system of governance was available.

From the municipal perspective some of the Legislature's management of election law can be annoying. Municipal efforts to find efficiencies (e.g., consolidated polling places) are often resisted, as are municipal efforts to keep the candidates out of the polling place. Because of the associated administrative burdens, municipal administrators unsuccessfully resisted opening up absentee balloting to an unlimited "no fault" process, and there now seems to be some resistance to redesigning the law to allow for a more efficient "early voting" system.

Partnership assessment. Notwithstanding occasional differences of opinion between state lawmakers and municipal officials regarding the administration of elections, there are two bottom lines that influence a positive partnership assessment:

- A healthy working relationship based on mutual respect and trust exists between municipal election officials and the Secretary of State's Office.
- The Municipal Revenue Sharing Program is the primary way the Legislature can demonstrate its recognition that the on-the-ground management of all regional, state and federal elections in Maine falls on municipal government and the property taxpayers that support municipal budgets.



GENERAL ASSISTANCE

The concept of the towns and cities being responsible for providing assistance so their impoverished citizens could obtain the necessities of life goes back to the English “pauper laws” of the 17th Century, and probably further. That mandate carried over to the colonies, the early New England states, and into this state’s law in 1820. The main thrust of the pauper laws was not how to determine eligibility or what types or value of assistance to provide. Instead, the pauper laws were almost entirely focused on which municipality was financially responsible for the assistance granted to persons in need according to the complicated system of “settlement.” Recipients of public assistance were not the financial responsibility of any town other than their birth municipality until they had “settled” into a new community with five consecutive years of residence.

In the mid-1970s the pauper laws were modernized into the General Assistance (GA) program and the state came in as a financial partner for the first time with the creation of a reimbursement system. The original GA reimbursement was designed as a circuitbreaker in order to protect the property taxpayers in communities with disproportionately large GA programs. When the town or city’s GA expenditures exceeded .0006 of the municipality’s state valuation, the state would provide reimbursement for 90% of GA expenditures exceeding that threshold.

The GA program went through additional stages of modernization and increased accountability in the latter half of the 1970s and early 1980s, when the state partnership was increased through the creation of the across-the-board 50% reimbursement system. The circuitbreaker reimbursement system was retained, but in addition all towns and cities became entitled to reimbursement from the state for 50% of the value of GA benefits issued each year starting with the first dollar up to the state-valuation threshold. (It should be noted that all municipal staffing and other administrative costs associated with the GA program are borne entirely by the municipality.)

In the early 1990s, a series of amendments to GA law were enacted that tightened the program, increased the recipients’ obligation to seek work, be truthful, perform workfare and utilize other available resources.

Most recently, a controversy has arisen between the state and some of the cities in Maine that operate relatively large GA programs that, at least in part, serve populations of asylum seekers and refugees from other countries that have not yet been granted citizenship or secured permission to reside in the U.S. The current Administration holds that federal law enacted 20 years ago requires this class of applicants to be denied GA. The cities hold that even if that is the case, Maine law or regulation needs to be appropriately amended or promulgated so that the municipalities are not put in a position of violating state law by following the Administration’s directives. The issue is being litigated, which is unfortunate. A simple enactment or rulemaking would resolve the matter.

Partnership assessment. General Assistance is not the most popular program to administer at the local level. With that said, over the decades the Legislature has transformed an ancient and completely unfunded mandate into a true 50-50 partnership program. Although the towns and cities from time to time have had to wait for their money, throughout the history of the program the state has never dishonored its statutory commitment to reimburse municipalities for the prescribed state share.

ANIMAL CONTROL

For reasons that appear to be based in simple practicality, municipalities have long been charged with managing animal control. As was the case with many colonial era laws, local officials and constables were typically best suited to deal with the management of domestic beasts when a nuisance situation was created. In Maine’s very first biennium, laws were passed to codify the authority of local governments to impound stray animals. In 1834, all towns were mandated to construct animal pounds and annually elect a pound keeper

who would maintain and publish the records of the impounded animals. Throughout the remainder of the 19th Century, state lawmakers built upon those early laws to address animal cruelty and abuse as well as livestock protection, with almost all enforcement duties resting under local authority.

The various animal control laws were repealed and replaced in 1909 with the provisions of “*An Act for the Licensing of Dogs and for the Better Protection of Sheep*.” This law provided the general statutory framework for today’s animal control laws, with an emphasis on protecting livestock from predation. Municipalities were allowed to retain 15 cents for each dog license they issued, with the remainder given to the state. By 1941, municipalities were receiving 25 cents for each dog license issued, and a law was passed directing unspent licensing funds remaining in the state treasury at the end of the fiscal year to be credited to municipal state tax assessments. (At the time, the municipalities collected property taxes to fund the state’s treasury.)

For the next 50 years, the animal control statutes were not significantly changed in structure; the municipal obligation to enforce state animal control laws remained firmly in place. In 1993, the Legislature made municipalities responsible for managing undomesticated animals that pose a threat to public safety (e.g., rabid wild animals). This legislation represents one of the first significant unfunded state mandates the Legislature enacted after Maine voters amended the state’s Constitution for the purpose of limiting that type of legislation in order to “more fairly apportion the cost of government.”

The next Legislature, in the mid 1990s, amended the dog licensing and vaccination laws to accommodate the introduction of wolf hybrids. In the late 1990s, the laws were amended to require municipalities to control all animals that pose a threat to the public health or safety, including dogs running at large and any domesticated animals that “are a cause of complaint in the community,” further solidifying municipal responsibility in this policy area. In 2007, the Legislature imposed new training and certification requirements on all municipal Animal Control Officers (ACOs), expanding those requirements again in 2009.

Currently, municipal clerks or licensing agents may retain \$1 for issuing and recording dog licenses, and the remainder of the fees collected must be deposited in either state or local animal welfare accounts that are dedicated to covering animal control expenses. The law requires the municipal animal welfare account to be used to fund the salaries of the ACOs and otherwise cover the costs of animal control, enforcing licensing laws, caring for abandoned or injured stray animals and supporting animal shelters. Municipalities are allowed to retain \$2 in their animal welfare accounts for licenses issued to neutered dogs, and another \$3 goes to the state’s Animal Welfare Fund. For unneutered dogs, \$10 goes to the state’s Fund and no money may be retained locally aside from the \$1 recording fee.

The most recent Municipal Fiscal Survey published by the Maine Municipal Association showed that the municipalities, on average, spend nearly \$5 on animal control functions for every \$1 they receive in dog licensing revenue.

Because people have divergent and often strong views about animal welfare, the animal control mandate can be a source of considerable expense and frustration at the local level. For some, there is nothing unusual about keeping a dog outside year round, tethered to a chain with access to a dog house. For others, seeing a dog chained outside in harsh winter weather is an example of animal cruelty. Some people believe it is an act of mercy to euthanize a severely ill or injured animal that is found abandoned. For others, it is morally wrong to withhold medical care from an animal under any set of circumstances. Municipal officials are often caught in that crossfire of perspectives. In addition, the municipal treasury is held financially accountable for the medical care of injured or ill animals that are found abandoned, and those bills can be expensive.

Partnership assessment. The municipal obligation to control stray and nuisance domesticated animals and protect them from wild animal predators was established centuries ago, and the dog licensing obligations that were established over 100 years ago are reasonably conducted at the municipal level for reasons of access

and convenience. That the mandate exists is not the primary issue; the focus should be on how the Legislature manages the mandate in modern times.

On that score, the sense of state partnership isn't overwhelming. The fees associated with these tasks that are allowed to remain with the municipalities are grossly inadequate to cover the costs. Since the state's Constitution was amended for the purpose of limiting unfunded state mandates, municipal obligations in the area of animal control have been expanded to include wild animals with rabies and mandatory ACO certification, neither of which was enacted with any state financial assistance. The mandatory training and certification requirements for the local Animal Control Officer are significant and can be inconvenient to access. Finally, the function of controlling animals for both the animals' and the public's protection can easily trigger controversy, high emotion and considerable expense in the area of medical care.



The Programs of the Early 20th Century

Local Road Assistance

Cemetery and Veterans' Graves Maintenance

Junkyard/Automobile Graveyard Management

LOCAL ROAD ASSISTANCE

In 1907 the state entered into a longstanding road-maintenance partnership with the towns and cities of the state. The program was established to financially assist with both voluntary and mandated local-level efforts to maintain, repair and improve state, "state aid" and local roads. Although over the last 100 years Maine's lawmakers have dabbled and amended the original state aid program, its purpose has largely remained focused on sharing state fuel tax and motor vehicle registration revenue with municipalities for the purposes of maintaining and improving the state's road networks.

1907 - The Original State Aid Program.

As originally enacted, the state aid program required municipalities to annually appropriate funds for the purpose of improving local roads. The required local appropriations were based on each municipality's taxable value according to a sliding scale, with the lowest-valued communities required to raise 50 cents per \$1,000 of value, and municipalities of the



highest value required to raise just over 8 cents per \$1,000. The "state-aid" element of the early 20th Century program was triggered when communities voluntarily raised an additional 50% or more than the amount required. The state matching funds were also provided according to a value-based sliding scale. At the low end, municipalities with a taxable value under \$100,000 received two state dollars for every additional local dollar raised over the required appropriation. At the high end, communities with a taxable value in excess of \$1 million received 75 cents in state aid for every additional local dollar raised.

1945 - Town Road Improvement Fund (TRIP). The first significant transformation of the partnership occurred nearly 40 years after the enactment of the original state aid program. In 1945 the Legislature enacted the Town Road Improvement Program (TRIP) to help municipalities develop gravel roads. TRIP funds were commonly referred to as "mud money." The TRIP program was also the primordial Local Road Assistance Program. As crafted, the Legislature was directed to annually appropriate and distribute to municipalities no more than 10% of the five year average revenue collected from fuel taxes and motor vehicle registration fees. Funds were distributed to municipalities using a formula based on each municipality's share of unimproved roads statewide. In addition to creating the 10% ceiling on the total statewide distribution, a minimum distribution was created guaranteeing that each municipality would receive at least \$200 in TRIP funds. With the exception of the first \$200, municipalities were required to invest those funds in unimproved roads.

1981 – Local Road Assistance Program (LRAP). The next significant change to the state/municipal local road funding partnership came in 1981, with the adoption of the Local Road Assistance Program (LRAP). LRAP consolidated three programs into a single state aid program: the TRIP program, a separate program for the winter maintenance of state aid roads, and a general state aid program for road construction. The introduction of LRAP was accompanied by a formal reclassification of state highways. The reclassification, often referred to locally as “road turnbacks,” shifted additional road maintenance responsibilities onto some communities.

Under the original LRAP, funds were distributed on the basis of property tax burden, population and the number of miles of road maintained in the winter and summer months. Municipalities were guaranteed 10% increases to their pre-existing levels of road assistance as well as \$1,000 for each mile of road maintained by the municipality in the summer, up to a maximum of 5 miles. Communities responsible for maintaining state roads during the summer months were guaranteed \$2,750 per mile for those roads. The funds allocated to municipalities under LRAP could be used for no other purpose than maintaining and repairing public roads.

1999 – Urban Rural Initiative Program (URIP). LRAP has since undergone two transformations. The first occurred in 1999 when LRAP was converted into the Urban Rural Initiative Program (URIP). URIP was divided into two parts.

One element provided funds for “rural” roads at a rate of \$600 per lane mile for all local and state aid roads located outside of the “urban compact”, which is the densely developed area of the state’s most populated communities. A significant break with the past is that Rural Road Initiative funding could be used for “capital” purposes only, which is road or bridge construction with at least a 10 year lifespan. Before URIP, road funding from the state could be used for summer and winter road maintenance purposes (e.g., plowing, ditching, light surfacing, etc.) as well as to make capital improvements to the municipality’s roadways.

The second element of URIP provided funds for the mandatory maintenance of state roads located in the “urban compact” zones of the more densely populated communities. The state aid was distributed at a rate of \$2,500 per year per lane mile for summer maintenance for the first two lanes and \$1,250 for each additional lane, and \$1,700 per lane mile for winter maintenance, regardless of the number of lanes maintained. To finance the URIP program, the Department of Transportation was directed to set aside and distribute to municipalities the equivalent of 10% of its transportation related budget, which is the equivalent level of state sharing established 50 years earlier.

2011 – Return of Local Road Assistance Program (LRAP). In 2011 the Legislature renamed the URIP program the Local Road Assistance Program (LRAP). The current program still includes a rural and urban component and the state aid levels are unchanged from those established in the 1999 law. The only difference between URIP and LRAP 2011 are the funding and eligibility standards for the voluntary state aid improvement program. Under URIP, municipalities could receive 67% in matching aid for improvements made to state aid minor collector roads. Under LRAP 2011, municipalities can receive up to 50% in state reimbursement for improvements made to either state aid major or minor collector roads.

Partnership assessment. But for the most recent actions of the Legislature, the overall assessment of the state-local road partnership over the last 108 years would be generally positive. Until now, it has been a partnership of deep resilience, withstanding a century’s worth of economic recessions, depressions and recoveries. In 2013, however, the Department of Transportation proposed and the members of the 126th Legislature enacted legislation that reduced state road assistance from 10% to 9% of state highway related resources, a 10% reduction in funding distribution. The reduction was not written into the law as a one-time event or a temporary deviation. Instead, the formula first formally established 70 years ago with the creation of the TRIP program was permanently changed to the municipal disadvantage. While the financial ramifications of this legislative cut, approximately \$2 million annually, pale in comparison to those made to the revenue

sharing program, the abandonment of a historic sharing arrangement seriously troubles municipal officials. Sharing programs only work if the commitment to sharing applies in both good times and bad. As significant as the Great Recession of 2008 may have been, it should not have dislodged a century-old transportation compact between the state and the local governments.

CEMETERIES AND VETERANS' GRAVES MAINTENANCE

Municipal officials have been directed by state law to keep in good repair the burial grounds, graves, markers and monuments of veterans of war at least since the earliest decades of the 1900s. For about a century, prior to 2013, the law remained largely unchanged, amended only to redefine the term "veteran" to ensure that the graves of service men and women from all branches of the military were included in the maintenance mandate.

In 2013, however, all members of the 126th Legislature except one voted to expand the mandate and significantly increase the municipal costs of maintaining veterans' graves.

The 2013 law required municipalities not only to maintain the graves, headstones, monuments and markers of all veterans located in publicly owned cemeteries and ancient burying grounds (whether publicly owned or not), but all graves, headstones, monuments and markers located in ancient burying grounds whether the graves of veterans or not. In addition to expanding responsibilities, standards of maintenance were established in statute. Municipalities were required to keep lawns trimmed to a precise height, as well as ensure that all headstone inscriptions remained legible and all gravestones were perfectly set. The mandate was enacted without any state financial participation.

Although municipal objections and concerns with the expanded mandate fell on deaf ears in 2013, the same Legislature retracted its actions one year later. On the basis of input from veterans' advocates, cemetery associations and municipal officials, compromise legislation was developed and unanimously enacted in 2014.

As the mandate now stands, municipalities, working in conjunction with veterans' organizations, cemetery associations and other interested parties, are responsible for keeping in good condition the graves of veterans in ancient burying grounds and municipally-owned cemeteries. The law also establishes minimum maintenance standards that simply require municipalities to keep the grass suitably trimmed, markers free of grass and debris, and the burial place free of fallen trees, branches, vines and weeds.

The current veterans' graves maintenance mandate nearly replicates the law as originally enacted over one hundred years ago.



Memorial Day flags. In addition to maintaining veterans' graves, municipalities have the responsibility to place flags on all veterans' graves every Memorial Day. The requirement to flag gravesites, also enacted in the early decades of the 1900s, has been amended twice. The law was first amended in 1961 to provide municipalities the choice between marking all gravesites for Memorial Day, or erecting a single flagpole in the cemetery in honor of the community's deceased veterans. In 1989 the law providing some municipal options for showing the flag on Memorial Day was changed back to foreclose the municipal option. Once again, the towns and cities became responsible for providing and placing individual flags before each veteran's gravesite. The requirement is handed down without any state-level financial support.

Partnership assessment. The history of the state mandates governing the maintenance of veterans graves merits a couple of observations.

First, the expensive mandate enacted in 2013 and then corrected in 2014 demonstrates how easy it is for the Legislature to push large new costs on the cities and towns. This is especially the case when the mandate is to the advantage of a favored constituency such as the state's veterans or first responders. In this case, even though the 2013 legislation contained the necessary preamble notifying all legislators that the law they were considering was a state mandate, and even though the fiscal note on the legislation identified the financial impact on the municipalities as "significant" (see page 26), all but one of Maine's 186 legislators voted to pass the expensive new requirements onto the towns and cities.

The second observation is that the veterans' graves mandate as maintained throughout the decades is simply not a partnership. As is the case with almost all state mandates, the question is not whether the mandated task should be performed. The question is what level of government should be directed to perform the task and where should the financial resources come from to provide the governmental service. It is not hard to imagine a system where the state would provide some financial assistance to help the municipalities keep the graves of veterans well maintained from spring to fall and appropriately marked on Memorial Day, especially in the private, non-municipal cemeteries.

Even more efficient than a separate financial partnership program for just this task, the Municipal Revenue Sharing Program could be honored.

LICENSING AUTOMOBILE GRAVEYARDS

The Legislature's concerns about "automobile dumps" and "automobile graveyards" first surfaced in Maine's law books in 1931, when those two terms were added to the long list of objectionable activities and land uses that could be prosecuted under Maine's nuisance statute. Six years later, the original version of the current junkyard and automobile graveyard licensing statute was enacted.

The 1937 licensing law, just two sentences in length, was simplicity itself. No automobile dump or graveyard could be established without first being formally permitted by the municipal officers in the town where the dump was located. The penalty for non-compliance was not more than \$100. The terms "automobile dump" and "automobile graveyard" were not defined. There were no standards provided to guide the permitting procedures. The term of the permit was apparently indefinite.

By 1944, the licensing law had been brushed-up considerably. The standard of three or more unserviceable, discarded, worn-out or junked automobiles was established as the definition of an "auto graveyard". The permit application included a required \$10 fee, retained by the municipality. Public notice and a public hearing became part of the permitting process. A permit, if granted, was good for only one year. Permitting standards were built into the law. For new auto graveyards, a screening requirement was established for all auto graveyards within 500 feet of any state or state-aid road. A stiff annual fee of \$500 was established for any auto graveyard within 100 feet of a state or state aid road. A hard setback was established to keep auto graveyards at least 300 feet from public parks, playgrounds, beaches, schools, churches and

cemeteries. A date was established for all pre-existing auto graveyards to come into compliance with the screening requirements.

That law of 70 years ago is easily recognizable in the junkyard licensing statute of today. The screening requirement has been expanded to cover proposed auto graveyards within 1,000 feet of state roads and 600 feet of all other public ways. The permit application fees have been increased to \$50, generally, with a \$200 fee for auto graveyards located within 100 feet from the right of way. As a general rule, the permit is good for one year. The 300 foot hard setbacks from various public facilities remain in place, along with a newer 100 foot setback from public or private drinking water wells. Although municipal home rule authority was not part of Maine's Constitution when the junkyard licensing laws were first written, the towns and cities are now expressly authorized to utilize that authority if they wish to adopt licensing ordinances with stricter provisions than established in law.

The most recent structural change to the automobile graveyard licensing laws were introduced in 1993, with the creation of a five-year license for "automobile recycling businesses" that meet a higher level of licensing and environmental standards.

Partnership assessment. The Legislature's "Statement of Purpose" which serves as the foundation of the junkyard licensing statute reads today just as it did 70 years ago, when it was first enacted. The purpose statement provides evidence that as Mainers began to purchase and generally consume automobiles with that particularly American passion, a negative phenomenon was occurring on Maine's roadways that the Legislature was determined to correct.

"Automobile junk yards, or so-called "auto graveyards", have been steadily expanding and frequently encroach upon highways. These graveyards have become a nuisance and a menace to safe travel on public ways, often detracting the attention of drivers of motor vehicles because it appears cars are parked on the highway, or that an accident has occurred. It is declared that such automobile graveyards are properly subject to police regulation and control." (PL 1941, c. 296)

In the late 1930s, when the automobile graveyard problem first caught the Legislature's attention, the towns and cities did not enjoy any "home rule" authority. It would be another 30 years before Maine's Constitution would be amended to allow municipalities to adopt ordinances to regulate nuisance activities even in the absence of express authorization by the Legislature.

In that context, the junkyard licensing statute is a classic state mandate. The Legislature identified a problem activity that needed to be corrected for the safety of people traveling on Maine's highways. There were approximately 500 towns and cities available to correct the problem. The solution was no more complicated to the Legislature than simply directing the municipalities to license and control the activity.

The Programs of the Early 1970s

Municipal Revenue Sharing

Subdivision Review and Approval

Shoreland Zoning

Solid Waste Management

Current Use Taxation

The early 1970s was a period of tremendous change for Maine's state and local governments. The establishment of the state income tax in 1969 led to a remarkable invigoration of the State Legislature, which went from a relatively passive actor to an active policy making entity almost overnight. Between 1971 and 1973, environmental policies, land use management programs and tax reform initiatives flourished. Dozens of new obligations were placed on the towns and cities. It is not difficult to connect the dots between the slate of mandates enacted by the Legislature in the first three years of the 1970s and the drive to amend Maine's Constitution – adopted by the voters in 1992 – in an attempt to curb the Legislature's capacity to pass new duties and costs onto local government.

MUNICIPAL REVENUE SHARING

The Municipal Revenue Sharing Program was enacted in 1972. The breadth of the legislative activity that was occurring at the time suggests this sharing program was established with several major public policy underpinnings:

- To replace the municipal revenue lost by the repeal of a component of the property tax known as the "inventory tax."
- To implement an obvious goal of the Legislature to reduce the state's overreliance on the property tax to pay for governmental services, a goal made achievable after the adoption of the more progressive state income tax in 1969.
- And, to recognize the impact of the range of state mandates being imposed on local governments, including the "old" pre-existing mandates (e.g., elections management, General Assistance, solid waste management, etc.) as well as the modern mandates the Legislature was in the process of enacting (e.g., subdivision review and approval, shoreland zoning management, junkyard management, solid waste recycling, "current use" taxation administration, etc.).

The program was clearly structured in statute as a "compact" or formal state-local agreement because it was established to operate outside of the normal appropriation system. The original revenue sharing law called for the distribution of 4% of the state's sales and income tax revenue to the local governments based on a formula involving municipal population and property tax burden. Ten years after its creation, the distribution was increased to 5% of the state's sales and income tax revenues, as it appears today in statute.

Partnership assessment. For the first 34 years of the program's existence, the Legislature honored the revenue sharing "compact," with only one major deviation in the early 1990s when the program was raided to balance the state budget during a recessionary period.

Beginning in 2006, at an ever increasing pace, the Legislature has been regularly raiding the revenue sharing program so that it is now operating at just 40% of the "compact" codified in statute.

The Municipal Revenue Sharing Program is the gold standard of measuring the health of the state-local relationship.

SUBDIVISION REVIEW AND APPROVAL

The municipal obligation to review and approve subdivision proposals goes back at least to 1944. As originally enacted, the municipal obligations with respect to subdivision review were an indirect rather than a direct municipal mandate. In fact, it is entirely possible that the earliest versions of subdivision review were put into law at municipal request.

The original obligation to review and approve subdivision proposals appeared to be optional for each municipality, but it was not optional in practice. Because all subdividers needed to record their plats in the county registry in order to convey any subdivided lot, and because no plat could be recorded without the signed approval of the municipal officers, municipal review was effectively required. The statutes provided no standards of review governing municipal approval until the 1950s, when the standard of “reasonableness” was written into the law. Over the years Planning Board review and standards of approval were incrementally woven into the system. The modern mandate to appoint a Planning Board and a Board of Appeals, adopt a subdivision review ordinance and review and approve all subdivision proposals at the local level according to a list of “no undue burden” standards in statute, was created in the early 1970s.



Partnership assessment. The law governing subdivision review and approval may well have been created to provide municipalities with a tool to become aware of the development activity that was occurring and to shape that development to some degree if they so wished. With that said, the simple law that began as little more than a formal for-your-information proceeding has been amended incrementally to become a full-blown, quasi-judicial process at the local level, involving complicated exceptions which invite challenges of interpretation of ordinance and statutory standards. Beyond establishing the local government obligations, state government has never provided much in the way of training or assistance with respect to the administration of subdivision review. Given state government’s interest in orderly and generally uniform land use management practices, the Municipal Revenue Sharing Program, if properly maintained by the Legislature, would be the state program that justifies the local administrative mandate of managing subdivisions.

SHORELAND ZONING

In 1971 the Legislature “authorized” municipalities to plan, zone and control the subdivision of land in the shoreland zone. The term “authorize” was a euphemism because no legislative authorization was necessary. Maine had already become a “home rule” state so statutory “permission” or enabling legislation was no longer necessary to create such an authority. Under the umbrella of that “authorization,” however, the towns and cities were mandated to adopt zoning and subdivision ordinances to achieve those results and given two years to do so. The Environmental Improvement Commission, predecessor to the Board of Environmental Protection, was authorized to force ordinances on all noncompliant municipalities.

In 1973, with the previously established deadlines encroaching, the Legislature beefed up the law it had just enacted by giving further definition to what constituted the shoreland zone, requiring all towns and cities to have an ordinance development committee in place by July 1973, and requiring every municipality to develop and adopt a comprehensive plan, shoreland zoning ordinance, and subdivision ordinance by July 1974. The Attorney General was directed by statute to get injunctions against any noncompliant municipality and the Department of Environmental Protection (DEP) was directed to adopt minimum shoreland zoning standards to assist in that effort. No financial assistance or other form of technical assistance from state government was provided in the legislation.



As far as the state-local “partnership” elements go, little has changed over the program’s 44-year history. For many years the staff in the DEP’s shoreland zoning unit constituted a knowledgeable and helpful resource for municipalities struggling with interpretation issues. On the other hand, the incremental amendments made to the Shoreland Zoning Act have significantly complicated the administration of the program and on occasion have been a matter of significant municipal frustration. In 2007, the shoreland zoning system was amended to include a mandatory 250-foot Resource Protection zone around certain waterbodies identified by the Department of Inland Fisheries and Wildlife as migratory

waterfowl resting areas. The information necessary to amend the municipal ordinances was to be provided by state government but the implementation was confusing, involved inaccurate mapping and the overall operation generated a great deal of mistrust between landowners and municipal officials who were only trying to comply with the law. That requirement has since been relaxed. A review of the current Code of Maine Rules as promulgated by the DEP suggests that approximately 60 municipalities in Maine are administering shoreland zoning ordinances imposed on them by the Board of Environmental Protection, which speaks to a significant disconnect between the state’s public policy and the municipal reality.

Partnership assessment. The shoreland zoning obligations to plan, develop and implement zoning ordinances, create planning boards and boards of appeals, eventually hire code enforcement officers and otherwise manage shoreland development was adopted in the top-down, command-and-control style that characterized the mandates enacted in the early 1970s. The mandate was enacted without any state financial support. State technical assistance to implement the mandatory regulation does not go far beyond promulgating the minimally-required guidelines.

The program has become more complicated over time, the implementation of some of the expansions of the program was poorly done, and state support for the training and certification program established for municipal code enforcement officers appears to be slipping. The Municipal Revenue Sharing Program was created in the same year that the shoreland zoning mandate was established. If the state was honoring the revenue sharing program it might be different, but as of now there is little reason to think of shoreland zoning as a shining example of state-local partnership.

SOLID WASTE MANAGEMENT

Maine's towns and cities have been mandated to provide disposal services for residential and commercial solid waste for 42 years, since the enactment of the Maine Solid Waste Management Act in 1973.

The mandate was enacted in the rather brutal style that characterized the Legislature's approach to mandates in the early 1970s. The opening lines made it clear that state government was going to exercise its responsibility to protect the health and welfare of its citizens by "encouraging" responsibly designed solid waste management systems. The rest of the enactment involves:

- Castigating the towns and cities for generating increasing amounts of solid waste.
- Mandating all municipalities to manage all solid waste disposal activities.
- Creating a state board to entirely regulate the municipalities' solid waste management activities.
- And, providing zero financial resources to assist in that effort.

The period of the 1970s through much of the 1980s involved the operation of approximately 500 open municipal dumps.

Throughout the 1990s, the municipal expense of the solid waste mandate skyrocketed with the required discontinuation of almost all open municipal landfills, which was quickly followed by the requirement that the landfills be capped over to prevent water infiltration, which involved costly engineering and earthwork. For most of the decade state government provided access to reimbursement, ranging from 30% - 50% of qualifying cover expenditures, to assist with the costs of closing a landfill. The municipal financial exposure to the transformation of solid waste management was still very high because it included both the local share of the landfill closure as well as the new costs associated with disposing of solid waste at the private landfills and waste-to-energy facilities that were being established. A double whammy.

In 1989, the modern solid waste management hierarchy was enacted, along with the goal to recycle 50% of all municipal solid waste. The mandates of the 1980s were more partnership-oriented than the mandates of the 1970s. As an example, the new recycling mandate also ushered in the Maine Waste Management Agency to assist municipalities with the task they were given. Funded by the application of various fees attached to the disposal of certain products, this agency was designed to provide grants, technical assistance and data collection capacities to assist local governments with the recycling "mandate."

The Maine Waste Management Agency was extinguished almost 20 years ago, just six years after its creation.

Out of the dust of 500 shuttered municipal landfills, four Waste-to-Energy facilities were established (now down to three) along with several large-capacity landfills to accept municipal solid waste. Most recently, the waste-to-energy disposal facilities are facing financial challenges associated with the sunset of federal subsidies for that type of electricity generation.

Partnership assessment. The bottom line is that solid waste management is an expensive municipal mandate which has not been the recipient of sustained financial or technical assistance from state government. There was a brief interlude of partnership two decades ago. Before and since, the state's approach to the mandate has been almost entirely regulatory, from the top down.



“TREE GROWTH” CURRENT USE TAX ADMINISTRATION

Maine’s voters approved the amendments to the state’s Constitution that ushered in the Tree Growth, Farmland and Open Space “current use” tax programs on November 3, 1970. In 1971, the Legislature adopted the statutes that implemented those programs.

As initially enacted, the Tree Growth tax program required participation for all forest land parcels over 500 acres in size. Participation was voluntary for the owners of all forested parcels under 500 acres, with no minimum acreage limit. The core structure of the program was essentially the same as it is today. A calculation is made annually by the State Tax Assessor of the appropriate “current use” valuation rate for forested lands of various types in all the regions of the state and the municipal assessors are required to use those valuations for the enrolled acreages in the municipality. To protect the municipal tax base, the initial program provided municipal reimbursement to ensure that no municipality would lose more than 10% of the property tax revenue it collected off the enrolled forest land during the tax year immediately previous to the implementation of the Tree Growth program.

Many significant amendments have been made to the Tree Growth program over its relatively controversial 44-year history. An abbreviated list of those amendments follows.

In 1973 the law was amended to require at least 10 acres of forested land to enroll. *From the municipal perspective, that limit was set too low and there are many small, essentially recreational/residential parcels enrolled in the program today.*

There were several attempts during the early years of the program to clarify the municipal reimbursement system. In 1977 the reimbursement system went to an administratively simpler 11 cents per enrolled acre.

In 1981, the mandatory enrollment of parcels over 500 acres was eliminated. Also in 1981 the reimbursement system was amended to include two additional steps in the calculation of reimbursement.

The total level of reimbursement for any municipality had to be reduced or “offset” by the increases in school subsidy the municipality would receive because of its lower valuation associated with enrollment. Less municipal value per student translates to less “fiscal capacity” and, therefore, increased subsidy under the state’s educational funding law.

In addition, Tree Growth reimbursement could not exceed the actual tax loss to the municipality assuming all the enrolled property would otherwise be assessed at the municipality’s “undeveloped acreage rate”.

From the municipal perspective, the required use of the municipality’s “undeveloped acreage rate” in the reimbursement formula causes the reimbursement to be far less than “90%” of the lost tax revenue. Many valuable, relatively small shorefront parcels are enrolled in the Tree Growth program to evade “just value” taxation and the taxable value of those properties far exceeds the municipality’s undeveloped acreage rate.

Also in 1981, persons owning forested parcels less than 100 acres in size were allowed to enroll in the program under the “personal use” provision if they were cutting their own firewood on the property rather than managing the property for the primary purpose of commercial timber harvesting. *From the municipal perspective, the “personal use” exception severely undermined the integrity of the Tree Growth tax program. For those personal use parcels, Tree Growth became a tax evasion program.*

In 1987, the current reimbursement system was established which purports to provide municipalities with 90% of their lost tax revenue, without fully succeeding. Over the years, different administrations and different legislatures have chosen in negative economic times to only partially fund the Tree Growth reimbursement system. There have been several periods of time, beginning in the middle of the 1990s, when the distribution of actual reimbursement was shortchanged by as much as 50% of what the statutory formula requires. When

that occurs, increased property tax burden is shifted onto those residents of the affected municipalities who do not have property enrolled in Tree Growth.

In 1989, the Tree Growth program was amended to require Tree Growth enrollees to obtain forest management plans for their enrolled parcels and to update those plans every 10 years. In 1993, the “personal use” exception was repealed. *From the municipal perspective, these two changes greatly improved the accountability and integrity of the Tree Growth tax program. There remains municipal skepticism about the quality of some of the forest management plans that are written for questionable parcels, where the primary use of the property is clearly not commercial timber harvesting. That some semblance of a management plan must be in place, however, was a strong step in the right direction.*

Between 2010 and 2012, in a series of amendments to the Tree Growth law governing the landowner’s obligation to update the forest management plan every 10 years, a convoluted municipal mandate was enacted that requires the local assessor to notify Tree Growth enrollees over and over again with respect to their obligation to submit 10 year updates to their plan. *From the municipal perspective, the burden of administering the forest management plan updates should fall on the enrollee enjoying the tax benefits of the Tree Growth program, not the municipal assessors.*

Partnership assessment. Maine’s voters amended the state’s Constitution to allow for “current use” taxation for certain non-development land uses in 1972. The implementation has teetered between establishing an accountable tax program and a tax haven. The state’s Tree Growth reimbursement obligations have not been rigorously honored in previous decades, and the management of the Tree Growth tax law has created a system that is anything but simple or efficient to administer.



The Programs of the 1980s

Revenue Sharing Expansion

Comprehensive Planning/Mandatory Land Use Zoning

Code Enforcement

Sand Salt Storage Sheds

REVENUE SHARING EXPANSION

In 1984, with legislation entitled “*An Act to Provide for Greater Equity in Maine’s Tax Structure*,” the Legislature gave the Municipal Revenue Sharing Program a 25% boost.

Almost since the revenue sharing program was created in the early 1970s, 4% of all state sales and income tax revenue was taken from off the top of the state’s tax receipts and dedicated to the “Local Government Fund.” That revenue was then distributed to the towns and cities according to a formula based on each municipality’s relative population and property tax rate.

With the 1984 enactment, the percentage of state revenue dedicated to municipal revenue sharing went from 4% to 4.75% for FY 1985 and then to 5.1% for FY 1986 and thereafter.

As will be noted in the following pages, several major state-local “partnership” programs were enacted during the 1980s. In contrast to the mandates enacted in the 1970s, the programs of the 1980s were enacted with greater investments in state agency resources, both technical and financial, to assist the municipalities in the mandated activities. The significant increase in municipal revenue sharing that was approved by the Legislature in mid-decade is extremely positive from a partnership perspective.

COMPREHENSIVE PLANNING/MANDATORY LAND USE ZONING

Municipally enacted zoning regulations that control and limit various land use activities within designated geographic areas must be supported by a comprehensive land use management plan – or “comprehensive plan” – that has been adopted by the municipality’s legislative body.

In Maine, the first statutory requirement for all municipalities to adopt a comprehensive plan was enacted in 1973 as part of follow-up legislation designed to more rigorously implement and enforce the shoreland zoning mandate enacted two years earlier. As was typically the case with 1970-era mandates, no guidance was provided in statute about what the plans should include, no technical assistance was offered by the state to help in the preparations of the plans, and no state financial participation was offered.

Sixteen years later, in 1989, the Legislature enacted the detailed and comprehensive requirement that all municipalities: (1) develop and adopt a state-approved comprehensive plan, and (2) within one year thereafter implement zoning ordinances that, at a minimum, designate and separate each municipality’s growth and rural areas. The landmark legislation was called the Growth Management Act.

The Growth Management Act was grounded in eight legislative “findings,” designed to address eight separate legislative “purposes,” and identified 10 legislative goals to be achieved, most of which were focused on protecting, preserving, promoting or encouraging something.

The legislative findings speak to a different time. The thrust of those findings were that “(T)he pace of land speculation and development has accelerated and outstripped the capacity of the State and municipalities to manage this growth under existing state and local laws,” and “(T)his unplanned growth threatens the integrity of the State’s natural resource base, the ability of local government and State Government to provide necessary public services, the affordability of decent housing, the long-term economic viability of the State’s economy and the

quality of life presently enjoyed by Maine's citizens."

The "purposes" of the Growth Management Act also speak to a bygone time. Never before or since in codified Maine statute has the interest in, and expectation of, state-local cooperation and collaboration been so robustly articulated. The centerpiece of that list of eight purposes was to "(C)reate a strong partnership between State Government and local government, while clarifying the respective roles of each, to improve land use planning and management."

Despite its enthusiastic introduction, the Growth Management Act was essentially repealed two years after its enactment. More accurately, in 1991, the 1989 Growth Management Act was put into a state of induced coma. The "strong partnership" purpose statement was repealed outright. All the words "shall" and "must" in the Act that mandated certain municipal or state actions were converted to either "may" or "should." Most of the state's obligation to assist the municipalities were repealed and any state obligations left on the books were made conditional on the availability of program funding, which would not be forthcoming. The Office of Comprehensive Planning in state government, established to provide assistance to the towns and cities, was closed down.

The legacy of the Growth Management Act is the way it epitomizes how "bungee cord" swings in state revenue translate into "bungee cord" public policies. When revenue is available, ambitious state programs are established with a splash. When the economy goes negative, the programs are quietly abandoned by the state, leaving the remnants of the public policy still on the books and the towns and cities holding the bag.

An example of statutory remnants of the Growth Management Act that cause confusion are the mandatory elements of comprehensive planning that remain on the books even when the mandate to adopt a plan has been repealed. That the law details mandatory elements within a voluntary planning process raises questions. What is the legal value of a comprehensive plan that may not be consistent with the mandatory components in statute but was adopted by the voters nonetheless to serve as the foundation of their zoning ordinances?

If not for legal reasons, there is potentially a practical purpose behind state agency review and certification of local plans and ordinances for "consistency" with the Growth Management Act. That purpose is the state agency "preference" system, which is not particularly vibrant. All state agencies that are contemplating issuing grants or making investments in the areas of land conservation, natural resource protection, open space or recreational facilities, or as part of programs encouraging growth and development, or for the purpose of expanding or constructing public facilities, are supposed to give first preference "to the extent feasible" to municipalities with growth management programs that have been certified as "consistent" with the Growth Management Act.

Partnership assessment. The Growth Management Act was a bold legislative initiative that imposed significant mandates on the towns and cities. To be fair, the Act also expanded state agency staff and infrastructure to meet the extensive obligations placed on those agencies to assist municipalities in the collaborative effort. Therefore, the initial partnership grade is relatively high in recognition of the state's good-faith effort to "walk the walk" with local government.

The state retreated from its stake in the Growth Management Act soon after enactment but the mandates in the Act were significantly tempered to coincide with the retreat. What remains on the books is something of a phantom. It appears to describe a system of managing development activities, it appears to employ a system of state assistance and collaborative effort, and it appears to reward municipalities that are compliant with the statutory approach with first access or first options on state agency grants and investments. Most of what appears to be the case is illusion.

CODE ENFORCEMENT

The obligation for the municipal officers of each municipality to appoint and retain a Code Enforcement Officer (CEO) was first enacted in 1983 for the purpose of ensuring the enforcement of the shoreland zoning laws and regulations enacted a dozen years earlier. Beyond establishing the mandate, the original code enforcement legislation was relatively neutral with respect to municipal impacts and is fairly characterized as an extension of the shoreland zoning mandate. The legislation provided no financial support to the municipalities for hiring hundreds of new municipal officials but it could be pointed out that in the following biennium (1985) the municipal revenue sharing law was amended to distribute 5.1% rather than 4% of state sales and income tax revenue to the municipalities, perhaps in response to the various new mandates enacted in the mid-1980s.

In addition, the original legislation provided both CEOs individually and the municipalities generally with the tools to enforce land use violations, including rights to enter properties for inspection purposes, comprehensive financial penalty systems and attorney fees for successfully prosecuted violations.

In 1989, with the enactment of the Growth Management Act, the law governing code enforcement officers was amended to increase their obligations and establish a comprehensive training and certification for all CEOs, not just those who intended to take cases to court. The 31-year history of the code enforcement officer mandate travels down those two paths: CEO responsibilities and CEO training.

CEO responsibilities 1983-2014. Over the years, the list of duties given to the municipal code enforcement officer by statute has grown considerably. In the original mandate, code enforcement officers were given four statutory duties which essentially fell into the single category of shoreland zoning management:

- Enforce the shoreland zoning laws and ordinances.
- Collect fees associated with shoreland zoning permits.
- Keep records on all permitted shoreland zoning and other land use permitting.
- And, investigate violations of local land use ordinances.

Skip ahead 31 years and the statute describing the duties of municipal code enforcement officers identifies five broad areas of enforcement obligations in the areas of land use and development:

- Shoreland zoning laws and ordinances.
- All municipal land use regulation, including comprehensive planning, growth management, general zoning, subdivision regulation, etc.
- Internal plumbing regulations (Maine State Plumbing Code).



- Subsurface wastewater disposal (Maine State Plumbing Code).
- Building standards established by:
 - ◊ municipal ordinance
 - ◊ state electrical and plumbing codes
 - ◊ general building inspection
 - ◊ disability construction standards for places of public accommodation
 - ◊ construction standards for multi-family housing, public housing and places of public accommodation under the Maine Human Rights Act
 - ◊ and, the Maine Uniform Building and Energy Code.

CEO Training 1983-2014. The general training and certification program for CEOs was not established until the Growth Management Act of 1989. In that legislation, the training and certification was conducted by the Vocational Technical Institute and the Department of Human Services and the curriculum included a list of six specific topic areas (plumbing code, soils analysis, electrical code, state and federal environmental regulations, zoning, and court techniques). Two years later, the list of specific curriculum topics was repealed and replaced with the more general “topics necessary for certification.”

Over the years, the list of entities responsible for developing or conducting the training has expanded. Until 2011, the primary entity responsible for the training program was the State Planning Office. In 2011, when that Office was disbanded, the responsibility went to the Department of Economic and Community Development, Office of Community Development.

In 2009, the law governing the CEO training and certification program was amended to limit the extent of the state’s obligation to provide CEO training/certification to the availability of funding. In the absence of available funding, the program would revert to a “registration” rather than a “certification” program.

Also in 2009, presumably in response to the economic downturn, ramped-up pressure on the state’s General Fund and the implementation of the just enacted Maine Uniform Building and Energy Code system, two specific sources of funding for the training/certification program were created in statute. 25% of the plumbing permit fees that the municipalities collect and send to the state were dedicated to the training fund as well as a 4 cent per square foot surcharge on the fees levied by the State Fire Marshal’s Office to review large-scale development proposals for compliance with the life safety codes. These dedicated resources may not be adequate. In 2014, \$30,000 was specially appropriated for the purpose of funding the CEO training and certification program in 2015.

Partnership assessment. When originally enacted 31 years ago, the municipal obligation to appoint a code enforcement officer can be viewed as the enforcement extension of the shoreland zoning mandate and a prompt for municipalities to organize under one official the pre-existing duties of plumbing and building inspection with the new duties of shoreland zoning enforcement. No financial assistance came with the new duties, but towns and cities were provided some tools to assist in their enforcement efforts. Also at the same approximate time, perhaps as pure coincidence, the revenue sharing distribution was increased by 25%.

Over the last 31 years, the statutory duties of municipal code officers have expanded to cover the enforcement of building codes for major commercial development established under state and federal laws as well as the enforcement of the state’s uniform building and energy code. Just as the most recent code enforcement mandate was enacted, the training and certification program provided by the state began to teeter. Considering that the lion’s share of what code enforcement officers are required to enforce are state codes and programs (shoreland zoning, the state plumbing code, the state electrical code, the state building and energy code), having the state maintain a robust training and certification program should not be too much to ask.

SAND-SALT STORAGE SHEDS

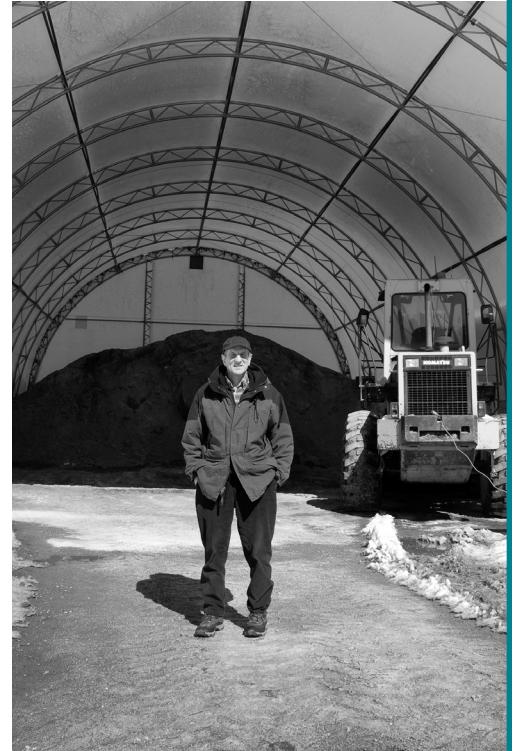
In the mid-1980s the state mandated that municipalities build storage facilities to house the sand and salt that is applied to Maine's roads during winter time. This mandate was sold to municipalities as a municipal-state partnering concept, establishing an intergovernmental cost sharing program along with the caveat that municipalities would only be required to fulfill this mandate if the state provided its share of funding. As a general rule, the state provided 50% reimbursement for the municipal costs of constructing the sheds, which needed to meet certain specifications. The program was administered jointly by the Maine Department of Transportation (MDOT) and the Maine Department of Environmental Protection (MDEP). Municipalities mandated to build storage sheds began saving for the project, issuing requests for proposals, contracting with engineers to design the facilities, and initiating construction. Every actual or proposed municipal sand-salt pile location was assessed by MDEP for ground and surface water impacts and each municipality was given a priority rating from 1-5, with priority 1 representing the highest level of environmental impact and priority 5 the least environmental impact.

Over the following decade, from 1986-1996, the Legislature funded \$3.3 million of the state's projected \$29 million share of the program. This sizable gap between actual appropriations and the state's projected financial exposure to the program led to the creation of a task force in 1998 to examine and reprioritize the sand/salt facilities program. The task force recommendations resulted in legislation in 1999 that, in part, decreased the state's remaining share from \$25.7 million down to \$7 million while also guaranteeing eventual state funding, at the 50% level, for all municipalities that had been or would be required to construct the storage sheds.

By 2005, the state had met its commitment for funding the priority 1 facilities. Although many of the participating municipalities waited years for their reimbursement, it is important to acknowledge that the state was striving to meet its obligations. The mandate had been removed in 1999 for the lowest priority areas, rated 4 or 5, but municipalities with priorities of 2 and 3 were still obligated to construct storage sheds. In 2010, state-share reimbursements were provided to twenty-one municipalities. In 2011, eighteen municipalities were still awaiting reimbursement from the state for its share of construction costs. By 2014, that number was reduced to fifteen.

In 2014, the Legislature's Transportation Committee unanimously supported legislation to retire the sand/salt storage facility funding program on July 1, 2017, and MDOT opened a last-chance process for remaining municipalities to apply for funding. According to MDOT, over the course of the program's history the state has invested a total of \$11 million into the construction of 204 municipal sand/salt storage facilities. Assuming the municipal financial exposure was \$11 million as well, the final costs work out to approximately \$108,000 per facility.

Partnership assessment. At the local level, there is a stark difference between funded mandates and unfunded mandates. The creation of the sand/salt storage mandate preceded enactment of Maine's mandate law, but positively included a mandate escape valve that could be utilized by municipalities in the absence of funding. Despite being chronically underfunded, the history of the sand/salt storage program shows that municipalities are able to demonstrate long-term flexibility when working with state agencies provided the state fundamentally honors its initial commitment.



Amendment to Maine's Constitution to Limit Unfunded State Mandates

On November 3, 1992, Maine's voters adopted an amendment to the state's Constitution designed to limit the Legislature's ability to pass onto local governments expensive new obligations without ponying-up a substantial level of state financial support. The constitutional provision reads as follows:

Section 21. State mandates. *For the purpose of more fairly apportioning the cost of government and providing local property tax relief, the State may not require a local unit of government to expand or modify that unit's activities so as to necessitate additional expenditures from local revenues unless the State provides annually 90% of the funding for these expenditures from State funds not previously appropriated to that local unit of government. Legislation implementing this section or requiring a specific expenditure as an exception to this requirement may be enacted upon the vote of 2/3 of all members elected to each House. This section must be liberally construed.*

In 1993, the Legislature enacted the implementing legislation, which is found at 30-A MRSA, section 5685.

Even now, 23 years after the voters approved this policy, there are some misconceptions about what this law does and does not require.

Two-part test. One misconception is that any action the state takes which requires increased municipal expenditure is a "state mandate." That is not the case. The definition of a state mandate involves a two-part test. Part one of the test is whether state government, through legislation or regulation, is requiring one or more local governments to expand or modify their activities. The second part of the test is whether the required expansion or modification necessitates additional expenditures at the local level. Both parts of the test need to be answered in the affirmative for a state mandate to be created.

For example, if the Legislature decided to slash the amount of school subsidy it currently provides, or to eliminate all reimbursement to the municipalities for their General Assistance programs, those decisions would be very negative for the state's property taxpayers but they would not be state mandates. Similarly, if a law authorizes, encourages or even incentivizes a certain municipal activity, the law would not be considered a mandate because undertaking the activity would still be optional at the local level. Finally, laws can be enacted that clearly require the modification of a municipal activity, but the modifications do not result in any need for increased local expenditures. Those laws are not state mandates, either.

The fiscal impact of a proposed state mandate on the local governments is estimated by the Legislature's nonpartisan Office of Fiscal and Program Review (OFPR) and recorded in the legislation's "fiscal note". A sample fiscal note is found [on page 26](#). The fiscal note provided as a sample was attached to legislation enacted in 2013 by a unanimous vote in the State Senate and an near-unanimous vote in the House. As will be noted, the fiscal note on the bill informed the Legislature that the proposed new mandate would push "significant" costs on to the towns and cities across the state. "Significant" is the strongest fiscal impact rating issued by OFPR. The enacted legislation did not include any state funding.

Other mandates that are not "state mandates." The statute governing state mandates makes it clear that the 90% state funding requirement does not apply to mandates established by federal law even if state law implements the federal requirement. If the state law includes requirements that go beyond those required by the federal government, the mandate obligations apply to those additional state requirements. The law also exempts from the state's funding requirement any activities that may be required of municipalities associated with election district reapportionment or election procedures authorized by the state's Constitution for referendums, citizen initiatives or a "peoples' veto" initiative. Finally, OFPR takes the position that no state mandate is created with legislation of "general applicability," which are laws that may require expanded

126th MAINE LEGISLATURE

LD 274

LR 1259(05)

An Act To Preserve and Protect Ancient Burial Grounds and Burial Grounds in Which Veterans Are Buried

Fiscal Note for Bill as Engrossed with:

C "A" (S-248)

S "A" (S-334) to C "A" (S-248)

Committee: State and Local Government

Fiscal Note

State Mandate - Exempted

State Mandates

Required Activity

Municipalities will be required to keep public burying grounds for all veterans in good condition and repair including keeping inscriptions visible and legible, keeping the headstones horizontally and vertically aligned and brush and vine clearing.

Unit Affected Local Cost

Municipality Significant
statewide

Pursuant to the Mandate Preamble, the two-thirds vote of all members elected to each House exempts the state from the constitutional requirement to fund 90% of the additional costs.

municipal activity but are not targeted in any way at municipal government. OFPR bases this position on some opinions issued by the state's Attorney General shortly after the mandate law was implemented.

Implementing protocols. Other elements of the mandate law that can cause confusion are the implementing protocols, which include a required mandate "preamble" and the fiscal note on all legislation that attempts to approximate the fiscal impacts on the local governments.

Mandate preamble. If the Legislature intends to enact a state mandate without providing the required 90% state funding, the law requires that the legislation containing the mandate include formal notification to all legislators of that intention. That notification is accomplished by writing into the beginning of the legislation what is referred to as a "mandate preamble," which reads as follows:

***Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all the members elected to each House have determined it necessary to enact this measure.*

In most cases, the Legislature adheres to this requirement and provides the required notice. There are several examples, however, when decisions were made to not include the required preamble on mandate legislation. The result is a law that was improperly enacted. These improperly enacted mandates cause confusion and something of a legal quagmire. Two examples are described in this report. The law obligating municipalities to enforce the Maine Uniform Building and Energy Code, and the law creating a "rebuttable presumption" under the Workers' Compensation statute that reverses the burden of proof requirements regarding workplace injury from the employee to the municipal employer.

Partnership assessment. The amendment to Maine's Constitution governing "state mandates" was certainly a large step in the right direction toward a mutually respectful state-local relationship. By raising the consciousness of Maine's lawmakers with respect to the impacts of their decisions on local governments and the property taxpayers, the benefits of the constitutional provision are enormous. Unlike some other states where constitutional amendments can be initiated by petition, only the Legislature is authorized to get a proposed amendment to Maine's Constitution in front of the voters for ratification. Municipal officials sincerely appreciate the willingness of the Legislature 23 years ago to place this amendment before the voters for their approval.

The terms of the mandate law appear clear and simple. The Legislature may enact a state mandate by either funding 90% of the mandate's operational costs or not funding the mandate by formally passing both the new obligation and its costs onto the local governments by a super-majority vote in both the House and the Senate. It turns out not to be quite so simple. There are ways around the mandate law. Enacting the mandate without either funding or the supermajority vote is one loophole. Enacting the mandate without the required notification (mandate preamble) is another. A third approach is to frame a law to suggest there are no mandate impacts in real life when there really are. For the mandate "partnership" to remain intact, these end-runs around the mandate law should be avoided at all costs.

The mandate law is the only provision in Maine's Constitution that ends with the sentence "*This section must be liberally construed.*" This means that the stated purpose of the mandate law should be taken into account, in addition to the actual words that comprise it. The stated purpose of the mandate law is to more fairly apportion the cost of government and provide local property tax relief.

Programs of the 1990s

Business Equipment Tax Reimbursement Program (BETR)

Homestead Property Tax Exemption

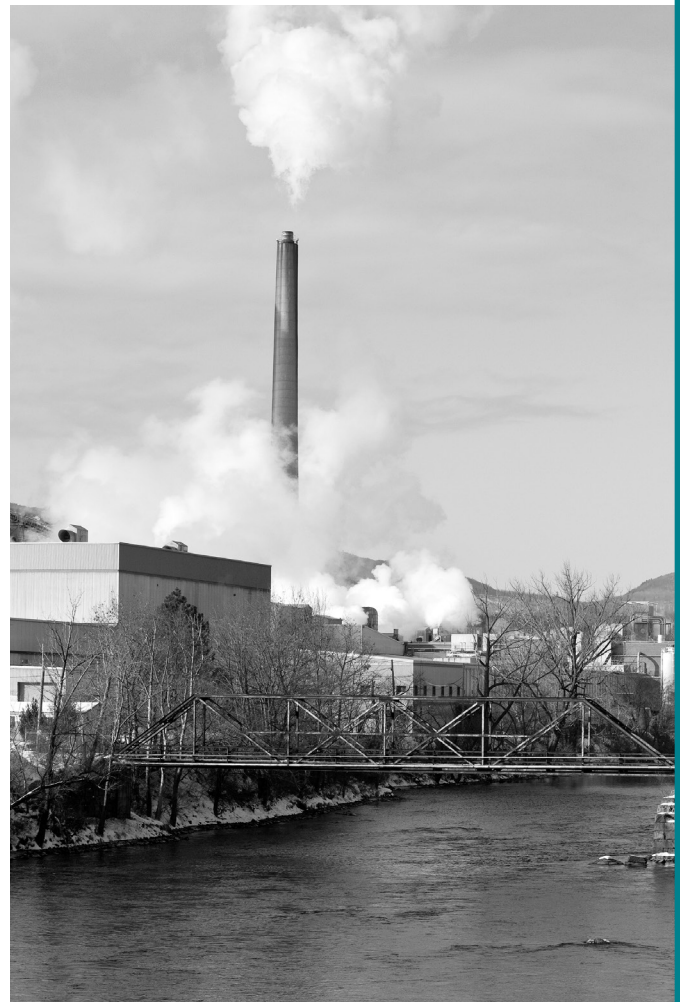
The halcyon days of the late 1980s that allowed expansive state-local partnerships to be embedded in Maine law came to an abrupt end in the early 1990s. The decade began with an economic recession that caused a precipitous decline in state revenue which resulted in legislative actions that immediately challenged the state-local relationship. The first major legislative raid on the Municipal Revenue Sharing Program was conducted by the Legislature in 1992. Governor McKernan simultaneously proposed the total elimination of the General Assistance program, giving an indication of the depth of the 1991 state budget deficit. By mid-decade, the economic pendulum was swinging the other way and state government engaged in several tax-related initiatives designed to invigorate the economy and protect Maine's property taxpayers. The 1990s was not a decade associated with the enactment of significant state mandates. The partnership programs of the 1990s are not found in Title 30-A of Maine's statutes, where municipal activities are generally governed. Instead, they are found in Title 36, where the state's tax code is located.

BUSINESS EQUIPMENT TAX REIMBURSEMENT PROGRAM (BETR)

What is now known as the Business Equipment Tax Reimbursement program, or BETR, was enacted by the Legislature in 1995. For its first 12 years of existence, BETR was a solid example of a state-local partnership program.

At the time, Governor King and the Legislature became convinced that the application of the property taxes to the value of the personal property used by businesses – everything from machines used in the manufacturing of products down to the normal computer systems that are part of all business establishments – were not applied in other states. The claim was not entirely accurate and loudly overstated, but to the extent it was accepted as true it supported several corollary claims. Maine's allegedly unique property tax on business personal property: (1) created a disincentive for companies to modernize their manufacturing technologies, (2) made Maine an unattractive state for investments by national or international companies with branches in Maine, and (3) generally contributed to an uncompetitive environment for economic development.

The obvious solution to the identified problem was to make the qualifying business personal property exempt from taxation. To provide some context, approximately 10% of the statewide property tax base was made up of personal property at the time, and in the "mill town" communities where large industrial operations were located, personal property ran from 20% to 80% of the entire municipal tax base.



This is where Maine's Constitution steps in. In 1978, the voters approved an amendment to the Constitution that requires the Legislature to reimburse all municipalities for at least 50% of the property tax revenue that is lost as a result of any new property tax exemption created in 1979 or thereafter. It's a partnership agreement, of a kind, embedded in the foundation of Maine law. It is all but certain this reimbursement obligation guided the Legislature's review of various options to achieve its goal. Ultimately, the Legislature and Governor decided on the BETR program.

BETR in a nutshell. The BETR program created an effective tax exemption rather than an actual tax exemption. Under the terms of the BETR program, the owner of the business personal property continued to pay the required property taxes to the municipalities. For the first 12 years of that property's useful life, however, the state was obligated by the BETR law to reimburse the businesses for 100% of the property taxes they actually paid. After the property was enrolled in the program for 12 years, when its taxable value had likely depreciated significantly, the reimbursements would end. By simulating rather than enacting a property tax exemption, the BETR program held the municipalities harmless with respect to the economic development incentives it was attempting to achieve. BETR also created an ongoing rather than one-time incentive for all businesses to continually upgrade their aging production machinery and equipment in order to fully enjoy the *de facto* tax exemption over time.

Partnership assessment. The two core issues for the municipalities whenever state government wants to create property tax incentives are: (1) the degree of state financial commitment to the incentives it wants to create, and (2) who takes the risk if the Legislature fails to meet its commitments.

Under the BETR program, the state was on the books to cover 100% of the impact. Under a straight exemption, the state's financial obligations drop to 50% of the impact, with the municipalities picking up the difference.

As to the issue of risk, the businesses are exposed if the Legislature fails to honor its financial commitments under BETR. Under a straight exemption, the municipalities assume that risk.

It is perhaps not surprising that 12 years to the day after the start-up of the BETR program it was substantially replaced with a straight-out tax exemption, which is described in the following chapter. Twenty years of history allows for the observation that the BETR program was implemented more as a transition system to pave the way for exemption than as a long-term partnership arrangement.

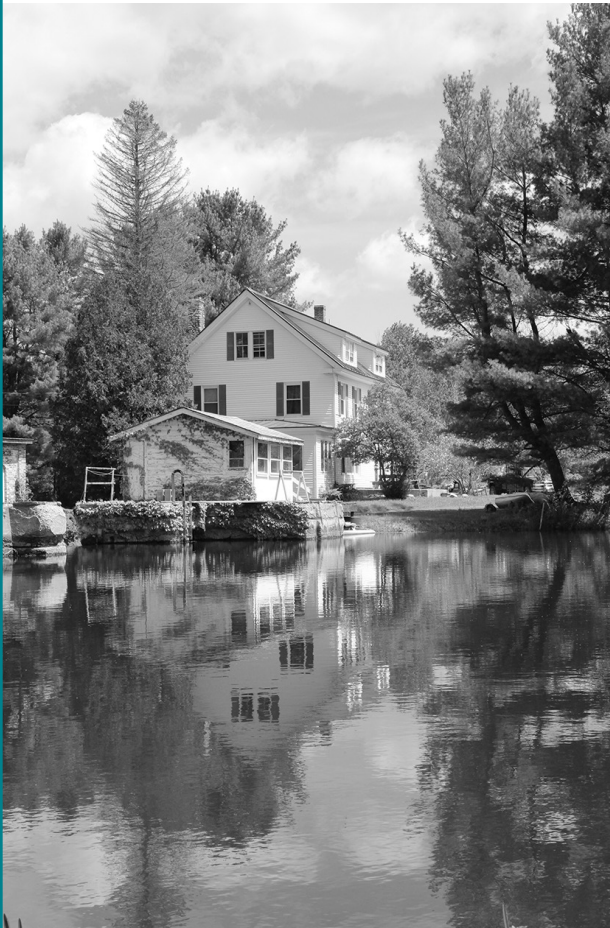
HOMESTEAD PROPERTY TAX EXEMPTION

A \$7,000 homestead exemption for Maine's primary resident homeowners was established by the Legislature in 1998 and Maine's municipal officials could not have been more appreciative.

The Homestead exemption neatly rounded out a three-point strategy to address the imbalance in Maine's tax code. The Municipal Revenue Sharing Program blunts the property tax burden as a form of general relief, for residents, businesses and owners of open land. The "circuitbreaker" property tax relief and rent rebate program was strategically targeted to the state's low income residents, whether owners or renters. What was needed was a relief program targeted to Maine's primary resident homeowners, and that is precisely what was delivered by the Legislature just over 16 years ago.

When it was first enacted, and for the first six years of its life, the Homestead exemption was designed to provide the full \$7,000 exemption for Maine's primary homeowners without increasing the property tax burden for all other property owners which would be the normal result of a significant tax exemption. Preventing a tax rate increase was accomplished by the Legislature providing full reimbursement for the lost municipal revenue.

If there is a partnership issue with the Legislature's management of the Homestead property tax exemption, it is only with respect to the way the exemption has been heavily manipulated over the last 10 years. Here's the brief history:



April 1, 1998. The taxable value of the homestead property of all primary residents of Maine was reduced by \$7,000 (in "full value"). Municipalities were reimbursed for 100% of their lost tax revenue, which ensured no property tax rate increase for businesses and other non-homesteaders.

April 1, 2003. Homestead exemption redesigned into a "tiered" system. The \$7,000 exemption was retained for homesteads valued at less than \$125,000. For homesteads valued at more than \$250,000, the homestead exemption was reduced to just \$2,500 in value. For homesteads valued between \$125,000 and \$250,000, a \$5,000 homestead was provided. These changes reduced the value of the property tax relief for many and were administratively challenging, a cause for significant complaint and difficult to explain to homeowners.

April 1, 2005. Homestead exemption was redesigned yet again. It was returned to a flat exemption with its face value increased from \$7,000 (or \$5,000 or \$2,500) to \$13,000, but instead of full reimbursement for lost tax revenue, the state would only provide reimbursement for 50% of the lost municipal revenue. This change pushed 50% of the cost of the exemption onto the municipal tax rate, caused significant tax shifting, triggered widespread complaint, and was difficult to explain to homeowners and non-homeowners.

April 1, 2009. The face value of the Homestead exemption was reduced from \$13,000 to \$10,000, immediately increasing all homeowners' property taxes.

Partnership assessment. The Homestead property tax exemption is an integral part of Maine's overall tax policy. In combination with revenue sharing and the property tax fairness credit (formerly the "circuitbreaker" program), the Homestead exemption helps rebalance a tax code that is overly reliant on property taxes to fund governmental services. Unfortunately, the Homestead exemption has undergone major restructurings since its creation, making it less effective in delivering property tax relief than when it was first established and triggering administrative and public relations challenges for the towns and cities actively managing the program.

Programs of the 2000s

Business Equipment Tax Exemption Program

School Consolidation

Workers' Compensation Expansion: Cancer Presumption

Maine's Uniform Building and Energy Code

Raids on Municipal Revenue Sharing

BUSINESS EQUIPMENT TAX EXEMPTION PROGRAM (BETE)

Of the 20-plus partnership programs evaluated in this report, the Business Equipment Tax Reimbursement program (BETR), described in the previous chapter, receives one of the highest state-local partnership ratings.

Under BETR, businesses were entitled to receive reimbursements from the state for the personal property taxes they had to pay to the municipalities where the personal property was located. The reimbursements were to be provided to the businesses for the first 12 years of the personal property's useful life. The tax year that BETR became effective began on April 1, 1996.

With the reimbursement available for just the 12-year term, it might have been expected the program would need to be revisited a dozen years out, and it was. In 2006 the Legislature put BETR out to pasture and established the Business Equipment Tax Exemption program, or BETE. Using the same definitions, "qualifying business property" first installed and made subject to taxation on or after April 1, 2008 became entirely exempt from taxation.

The available data at the time of enactment in 2006 showed that the category of business personal property made exempt by this law represented approximately 7% of the statewide municipal tax base, over \$8 billion in taxable value. The enactment of BETE did not make this large component of the municipal tax base exempt overnight, but it put into motion a steady deterioration of the tax base, particularly in those communities hosting large industrial facilities where the personal property in the state is concentrated. Just five years after the implementation of BETE, in 2013, the same source of data (Municipal Valuation Return Statistical Summary) reveals that the personal property category had dropped to just 4.5% of the statewide municipal property tax base, valued at just over \$7 billion. The long-term impacts of the BETE exemption are certainly playing out.

In the previous chapter's discussion of the BETR program, it was pointed out that the state's Constitution was amended in 1978 to require the Legislature to provide to the towns and cities at least 50% of their lost tax revenue for all new property tax exemptions created in 1979 and thereafter. That requirement clearly applies with respect to the BETE exemption. For communities with a solid level of personal property in their tax base, the Legislature committed itself to even more than the 50% requirement. There is nothing simple about the details of the administration of the BETE program, but generally speaking, as a matter of statute, the state's reimbursement obligation climbs higher than the 50% minimum guaranteed by the Constitution in proportion to the degree a municipality's property base is made up of business equipment and machinery and other qualifying personal property.

Partnership assessment. The municipal tax base is not infinitely erodible.

The tax exemptions for "charitable corporations" and "literary and scientific institutions" have been on the books throughout the state's history, but the charitable corporations of yesteryear were nothing like their counterparts today. Under the umbrella of these two pre-existing categories of exemption alone, big holes are regularly chopped in the municipal tax base.

In the early 1970s, the Legislature repealed the “inventory” component of the property tax for the purposes of taking some burden off businesses and stimulating economic development, and simultaneously established the revenue sharing system to replace the lost tax base with “broad-based tax revenue.”

A quarter of a century later, for essentially the same reasons, the Legislature began the process of repealing the property tax on the personal property owned by businesses. For the first 12 years of that process, under the BETR program, the municipalities were held harmless because of the way that program was designed.

Perhaps it was inevitable that the simulation of an exemption under the BETR system would ultimately convert to a pure exemption, which occurred with the enactment of the BETE program. Maine’s Constitution forces a “partnership” financial approach to all newly created exemptions by requiring the Legislature to reimburse the municipalities for 50% of their lost tax revenue. In the case of BETE, the Legislature went beyond its minimum obligations and provides deeper reimbursement for particularly impacted communities. The state’s commitment to that system, which has held thus far, is much appreciated.

The proliferation of exempt status as authorized by the Legislature is pushing an ever-increasing level of property tax burden on Maine’s homeowners who are, naturally enough, seeking greater relief and their own exemption. Without full reimbursement from broad-based resources, the municipal property tax base cannot be made any narrower.

SCHOOL CONSOLIDATION

In 2007 the Legislature adopted a biennial state budget that included the forced, or effectively forced, consolidation of many of Maine’s suburban and rural public school systems. The consolidation legislation was embedded in the state budget because it ostensibly saved the state approximately \$38 million in state subsidy by reducing school administrative costs. The math supporting that claim was sketchy at best, particularly the conclusion that nearly \$40 million in administrative, transportation and special education savings could be achieved through reorganization in a two-year period.

Governor Baldacci’s school consolidation proposal was crafted with no input from the impacted school or municipal communities. As plans of this type go, it was as “top-down” as it gets.

Under the Governor’s proposal, in order to “save” \$38 million within the two-year budget cycle, the existing 286 school administrative units would be abolished and reorganized as 26 consolidated units. That

massive reorganization was to occur between January 2007 and July 1, 2008. For the first time in this state’s history, local units of government would be abolished and new local units of government would be created



without allowing the local voters to weigh-in on the question. An alternative approach crafted by the school and municipal communities was presented to the Legislature but rejected out-of-hand. The alternative approach involved the development of local buy-in and the use of some incentives, building on the general success of the school reorganizations of the late 1960s initiated by the Sinclair Act. The alternative plan was rejected because it could not promise an immediate \$38 million in state “savings.”

Although the Governor’s original plan was significantly amended before final adoption, both the legislative process and the subsequent implementation process did little to foster a partnership relationship between the state and its local governments. Because the proposal was located in the state budget, four members of the Appropriations Committee were selected to craft the plan rather than the Education Committee. As the plan unfolded, multiple exceptions to the obligation to consolidate were woven into the plan, including island schools, tribal schools, school systems with more than 2,500 students and so-called “high performing” schools.

As finally adopted, the mandate required school systems not otherwise exempt from the process to: (1) file a notice of intent to engage in planning and negotiations with other school systems to meet the consolidation requirements; (2) create “reorganization planning committees” to develop the official consolidation plan to be approved by the Commissioner of the Department of Education; (3) present the consolidation plan to the voters of the proposed new “Regional School Unit” for ratification; and (4) implement the state-approved and regionally ratified plan. Failure to either conduct these activities or obtain voter approval for the consolidation plan resulted in stiff financial penalties.

For the many communities swept into this mandate, the task was complex, confusing, difficult and frustrating. Many hundreds of municipal and school officials and concerned members of the general public were called upon by this mandate to spend thousands of hours, collectively, in meetings, negotiations, public hearings and specially-scheduled elections in response to the legislative mandate.

As sweeping and controversial as the consolidation law was, it turned out to be something of a flash-in-the-pan. Seven years later, much of this law has disappeared. The financial penalty for non-compliance, which was a powerful lever forcing the formation of the new school districts, was relaxed and effectively eliminated soon after the voters made their decisions and the “stick” was no longer needed. After the newly required cost sharing formulas were implemented in the new school districts, a significant “buyers’ remorse” swept the land and community after community started to engage in the equally complicated and arduous process of withdrawing from the school district they were forced to join by threat of penalty.

Partnership assessment. Nothing in the review of the school consolidation law and its aftermath invokes the concept of partnership. The entire effort was a rushed approach to achieve unrealistic state budget savings. The policy was developed with little to no collaborative input from the affected constituencies. Systems that include at least some element of incentive suggest partnership; systems based on the imposition of penalties do not. The implementation required an enormous, contentious and thoroughly thankless effort at the local level. Finally, the post-implementation period revealed little to no discernible savings and delivered negative financial impacts for many municipal partners. A widespread deorganization response rippled throughout many regions of the state as a result.

WORKERS’ COMPENSATION EXPANSION: CANCER PRESUMPTION

Municipal firefighters are Maine’s first responders to emergency situations. It can be dangerous work and the injuries and illnesses experienced by firefighters as a result of their service need to be treated by a prompt and effective medical system. On that issue, there is no dispute. Because almost all the firefighters in Maine are employed by municipal government, the cost of providing medical care for workplace-related injury or illness is borne by municipal employers and governed by the state’s Workers’ Compensation system. What follows

is a description of how Maine's Workers' Compensation law was amended in 2009 to create a "rebuttable presumption" that a firefighter who is diagnosed with one of 10 specific cancers contracted the cancer as a result of employment as a firefighter.

The inner mechanics of the Workers' Compensation system bear little resemblance to the other types of programs that are being evaluated in this report. In managing their Workers' Compensation claims, the municipalities are not providing the same type of public services that they provide when they manage a statewide election, for example, or provide for the disposal of the solid waste generated throughout the community. Managing a municipality's Workers' Compensation exposure is an underlying, "back office" task associated in this case with provision of fire protection services. The issue of state-local partnership associated with this legislation is focused on the Legislature's management of Workers' Compensation law as it applies to the municipal employer. It also describes an example of the Legislature's management of the constitutional amendment designed to limit the enactment of unfunded state mandates.

"Rebuttable presumption." As a general rule in Workers' Compensation law, the employee must prove in the case of a disputed claim that the illness or injury for which a claim is being filed was work-related. In the entire body of Workers' Compensation law, there are four exceptions to that general rule, one of which applies to all claims regardless of employer and three of which are focused on the municipal employer. Those exceptions are called "rebuttable presumptions." Under a rebuttable presumption, a certain illness, injury or event is automatically presumed to be work related (*"arising out of and in the course of employment"*), and the employer is given the task of proving that it was not. In other words, the burden-of-proof obligations are reversed from the general rule and the employer must prove that the workplace or work environment was not the cause of the illness or injury. Given the wide range of workplaces and working conditions in the state, many of which are associated with inherent dangers or risks, it is entirely unclear why the rebuttable presumptions in Maine's Workers' Compensation law are so uniquely focused on the municipal workplace.

The across-the-board rebuttable presumption in Workers' Compensation law is triggered when the employee is killed or suffers a physical or mental inability to testify.

The second rebuttable presumption applies to municipal firefighters who have contracted cardiovascular pulmonary disease or died as a result of such disease within six months of having participated in fire fighting, training or drill. This rebuttable presumption was enacted in 1992, before the state's Constitution was amended to restrict the enactment of unfunded state mandates.

The third rebuttable presumption applies to a municipal firefighter or emergency medical service provider, law enforcement officer or corrections officer who contracts hepatitis, a type of meningitis or tuberculosis. This rebuttable presumption, which was recognized by the Legislature as a state mandate, was enacted in 2002 with the necessary 2/3 vote in both the House and Senate to override any requirement for state funding.

The fourth and final rebuttable presumption in Workers' Compensation law is the cancer presumption which applies exclusively to municipal firefighters. As was the case with the communicable disease presumption enacted in 2002, this legislation was identified by the Legislature's Office of Fiscal and Program Review (OFPR) as a state mandate. Despite concerted efforts by the bill's sponsor and legislative leadership to convince OFPR that the bill was not a mandate, the final fiscal note identified the bill as a "potential" state mandate imposing "significant" increased expenditures on municipalities statewide ([see page 35](#)). Ignoring the fiscal note, proponents of the legislation were successful in causing the bill to be stripped of the required mandate preamble, allowing legislators to vote for the bill under the impression that it was not a new state mandate.

The law is now codified in Maine's Revised Statutes as one of those rogue mandates enacted outside of the system established by the constitutional amendment. The Legislature did not vote to fund the new mandate nor did it vote to exempt the state from the requirement to fund at least 90% of the mandated new costs.

124th MAINE LEGISLATURE

LD 621

LR
667(02)

An Act Allowing Workers' Compensation Benefits for Firefighters Who Contract Cancer

Fiscal Note for Bill as Amended by Committee Amendment “ “

Committee: Labor

Fiscal Note Required: Yes

Fiscal Note

Local government costs - potential state mandate

State Mandates

Required Activity

Shifting the burden of proof that a municipal firefighter or volunteer firefighter contracted certain types of cancer as a result of employment as a firefighter from the claimant to the employer and/or the employer's insurer may represent an indirect modification of a municipal activity.

Unit Affected Local Cost

Municipality Significant
statewide

The indirect modification of local activities in this bill may represent a State mandate pursuant to the Constitution of Maine. Unless General Fund appropriations are provided to fund at least 90% of the additional costs or a Mandate Preamble is amended to the bill and two-thirds of the members of each House vote to exempt this mandate from the funding requirement, municipalities may not be required to implement these changes.

Fiscal Detail and Notes

This legislation will increase costs to local governments in the form of both higher premiums for workers' compensation insurance and increased legal costs. The impact to individual municipalities can not be determined at this time and will depend on actual experience.

Underlying state law provides that in that circumstance the municipalities have no obligation to abide by the mandate. Unfortunately, there is no way to employ that option at the municipal level because of the way cancer presumption is embedded in the Workers' Compensation system.

Partnership assessment. If the burden of proof in Workers' Compensation law should be shifted to employers with work environments that carry inherent risks, it should not just be municipal employers that are affected. There is a conspicuous discrimination in Maine's Workers' Compensation law if the only employer obliged to take on an unusual burden is the municipal employer.

There can be no doubt that shifting the burden of proof to the municipal employer *"requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures"* which is how Maine's Constitution defines a state mandate. The expanded and modified activities and the increased expenditures associated with the new Workers' Compensation presumptions are now coming home to roost as the law is being implemented. To enact laws that are recognized state mandates by pretending they are not end runs the policy firmly established in Maine's Constitution.

MAINE'S UNIFORM BUILDING AND ENERGY CODE

In 2008 the Legislature enacted *"An Act to Establish a Uniform Building and Energy Code."* As the title suggests, the law established in every municipality in the state with more than 2,000 residents a common set of building and energy conservation codes including the multi-volume International building and energy conservation codes. As a group, they are called the Maine Uniform Building and Energy Code, or "MUBEC." Under the law, the MUBEC requirements are applied to almost all construction of built property in the municipalities where its use is mandated. There are few exceptions.

With that enactment, nearly 170 Maine municipalities became responsible for the enforcement of a comprehensive set of building and energy codes. Over 80 of those municipalities had never adopted or enforced a building code of any kind. In an attempt to craft the legislation to soften the mandate implications as much as possible, the MUBEC law allows properly credentialed, private, "third party inspectors" to certify MUBEC compliance for construction projects. In theory, a municipality enforcing the MUBEC requirements only has to accept the incoming certifications from the available army of private, third party inspectors.

That theory, unfortunately, was not the way it played out in real life. The enactment of the MUBEC code provides a lesson in the lengths the Legislature will sometimes take to avoid a new



“partnership program” from being defined as a “state mandate.”

The following facts were well known at the time of enactment and are still the case today:

- Municipal officials are responsible under law for building inspection and code enforcement.
- The MUBEC legislation was identified by the Legislature’s non-partisan Office of Fiscal and Program Review (OFPR) as a state mandate.
- The MUBEC legislation, as read, debated and subsequently amended on the floors of the Maine House or Senate did not include the mandate preamble that is required whenever the Legislature intends to enact a state mandate without providing the required share of state funding.
- Under Maine’s mandate law, municipalities are not required to adhere to laws containing mandates unless the law either passed the Maine House and Senate with a 2/3 majority vote or received 90% state funding. In the latter case, if the Legislature chooses not to reimburse the costs associated with otherwise mandated activities, municipalities are not bound to undertake those activities as a matter of law.
- The Legislature did not pass the 2008 legislation by a 2/3 vote, nor did it provide any reimbursement to the municipalities for MUBEC enforcement.
- Since the 2008 legislation allowed either municipal officials or “third party inspectors” to perform inspections used for certificates of occupancy, OFPR labeled this bill an “insignificant” state mandate on the theory the municipalities could make use of the third party inspectors to perform nearly all MUBEC-related tasks.
- Because the buck stops with municipal code enforcement officers in terms of legality, liability, and practicality, and because the general public expects and often demands that the municipality and not the private sector perform building code enforcement, the use of third party inspectors at best reduces, but most certainly does not negate, the burden on municipalities to enforce the state’s building code.
- The 2008 legislation funded three full-time state positions to help oversee the new state-mandated MUBEC training and certification programs for code enforcement officers and third party inspectors.

Since the enactment of MUBEC in 2008, there have been two subsequent developments of significance.

In 2011, legislation amended the mandate so that only the 89 municipalities with over 4,000 residents, rather than the 168 municipalities with more than 2,000 residents, would be mandated to comply with MUBEC.

The three full-time state-level positions devoted to MUBEC training and certification have now been reduced to one part-time position. In 2013, funding for that position was discontinued in the Governor’s proposed budget. Negotiations barely saved the part-time position, for now.

Partnership Assessment. Mandatory code enforcement came into being with the shoreland zoning act of 1971 and the duties of the code enforcement officer have been steadily expanded ever since. The MUBEC enactment in 2008 imposed additional requirements on local governments, particularly those 80-plus municipalities that never before adopted or enforced a building or energy code.

That being said, there would have been a way to approach the new MUBEC-related requirements in the spirit of true partnership if there was a legislative will.

The idea of creating private sector third party inspectors has merit because it could help defray some of the costs to government associated with implementing this program. The third party inspection model, however, does not evaporate those costs entirely. Furthermore, the reduced enforcement costs for local

governments would merely be shifted to increased costs of construction for local homeowners and businesses. For the implementation of MUBEC to work on a broad municipal basis, the Legislature should have been willing to work with the municipal officials and the general public in the areas of education, public relations, technical assistance and financial assistance.

That sense of true partnership was nowhere in evidence in 2008. Instead, the purported availability and effectiveness of third party inspections was used by the Legislature as a pretense to strip the mandate preamble off the legislation and act as though the law would have no fiscal, administrative and public relations impact on local government.

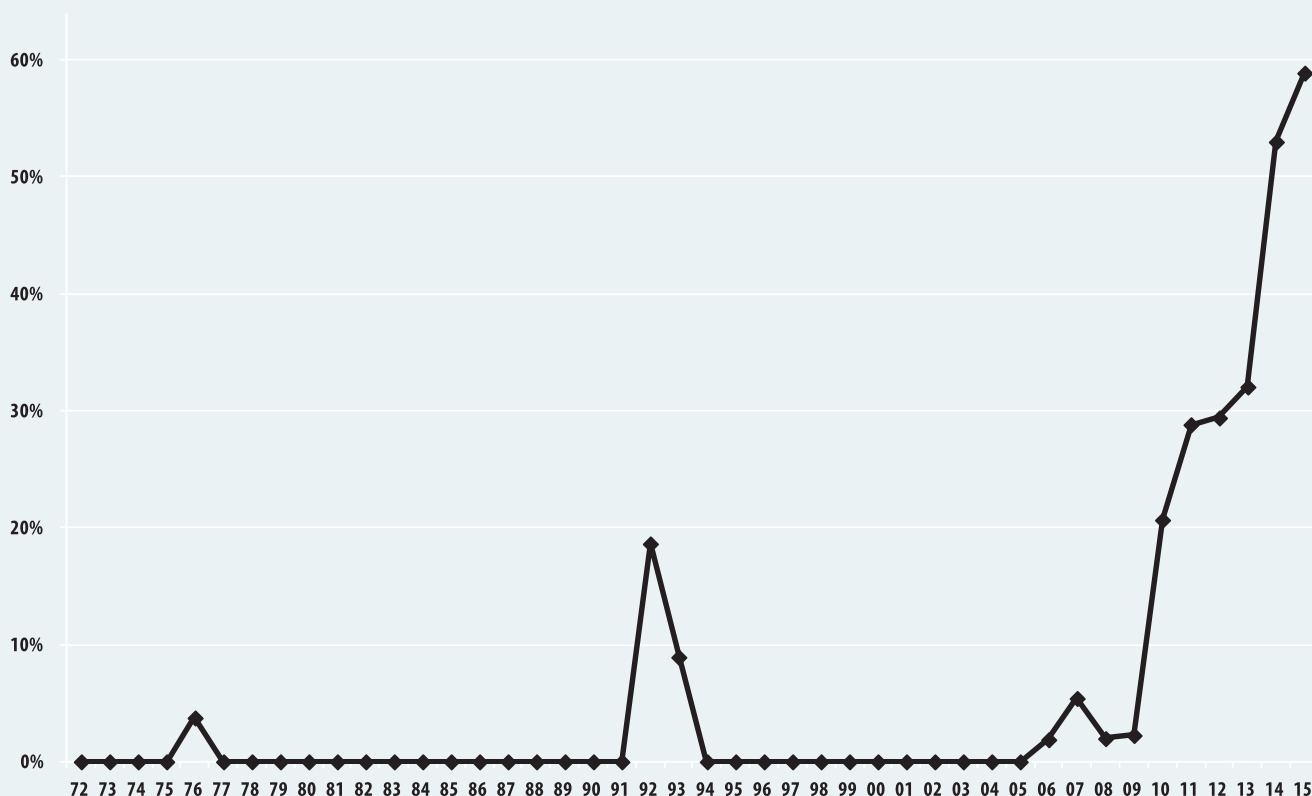
RAIDS ON MUNICIPAL REVENUE SHARING

The graph and the spreadsheet on pages 36 and 37 describing the 42-year history of the revenue sharing program say it all. Beginning in 2006, Governor Baldacci and the 122nd Maine Legislature began nipping at the sharing system. Enacted as part of the biennial state budgets, these early “transfers” targeted a relatively small amount of total revenue sharing dedicated by law to the towns and cities and slipped it, instead, into the state’s General Fund. For the first four years these raids on revenue sharing were in the range of 2% - 5% of total distribution. They were calculated to hold the amount of revenue being shared relatively flat on a year to year basis, which muted municipal concern.

At the same time, however, the practice of “transferring” revenue sharing resources in the eyes of Maine’s lawmakers started to become commonplace, routine, legitimized by repetition.

In 2009, state government’s appetite for revenue sharing resources to finance state government got larger

Percent of Revenue Sharing Funds Redirected to State General Fund 1972-2015



Source: Office of Fiscal and Program Review; State Budget Documents.

by an order of magnitude. Reacting to a slump in state tax revenues caused by the Great Recession of 2008, fully 20% of revenue sharing was taken in FY 2010 to help finance state government. The next Administration and the subsequent Legislatures increased the shift of revenue sharing funds by redirecting 30% of revenue sharing resources away from the towns and cities to the state's treasury.

By 2014, state sales and income tax revenues had recovered to meet and exceed their pre-recessionary levels, but that had no impact on the state's insatiable appetite. For the current fiscal year (FY 2015), state government has doubled down on the 30% raids and "transferred" nearly 60% of the revenue dedicated to the Local Government Fund to the state's General Fund. Governor LePage's position on the subject is clear. He proposed eliminating the program entirely for the FY 2014-15 biennium, has characterized revenue sharing negatively as municipal "welfare," and has most recently suggested that revenue sharing provides an excuse for municipalities to retain inefficient systems of service delivery. Many legislators, for their part, may be unaware of the program's history or purpose and suggest they have no alternative but to cut it, given the state's budget constraints. The argument to maintain the program according to its original design rests on the four foundation stones that have supported revenue sharing since its inception. Revenue sharing:

- Recognizes and counters against the deep erosion to the municipal tax base caused by exemptions granted by the Legislature.
- Recognizes and counters against the state's historic overreliance on the regressive property taxes to pay for governmental services.
- Recognizes in good faith the contributions municipal governments make to nurture, support and grow the state's economy.
- And recognizes in good faith all the programs and services the municipalities are required by state government to provide for the general good. With just a small share of broad based tax revenue, revenue sharing demonstrates the state's collaboration in that partnership.

Legislative Transfers Out of Revenue Sharing (1972 - 2015)

	Calculated Revenue Sharing Distribution	Legislative Raid	Actual Revenue Sharing Distribution	Raid as % of Calculated Revenue Sharing Distribution	% Actual Distribution
1972	2,900,000		2,900,000	0%	100%
1973	3,700,000		3,700,000	0%	100%
1974	6,200,000		6,200,000	0%	100%
1975	8,000,000		8,000,000	0%	100%
1976	9,870,130	370,130	9,500,000	4%	96%
1977	9,900,000		9,900,000	0%	100%
1978	12,700,000		12,700,000	0%	100%
1979	14,100,000		14,100,000	0%	100%
1980	15,609,880		15,609,880	0%	100%
1981	17,934,892		17,934,892	0%	100%
1982	19,654,260		19,654,260	0%	100%
1983	21,547,832		21,547,832	0%	100%
1984	27,579,003		27,579,003	0%	100%
1985	35,658,816		35,658,816	0%	100%
1986	41,399,922		41,399,922	0%	100%
1987	49,636,300		49,636,300	0%	100%
1988	56,920,102		56,920,102	0%	100%
1989	63,757,298		63,757,298	0%	100%
1990	60,826,462		60,826,462	0%	100%
1991	62,254,009		62,254,009	0%	100%
1992	64,939,137	12,100,000	52,839,137	19%	81%
1993	67,128,500	6,000,000	61,128,500	9%	91%
1994	66,325,845		66,325,845	0%	100%
1995	69,896,500		69,896,500	0%	100%
1996	72,704,600		72,704,600	0%	100%
1997	77,696,000		77,696,000	0%	100%
1998	89,490,000		89,490,000	0%	100%
1999	96,174,000		96,174,000	0%	100%
2000	107,116,000		107,116,000	0%	100%
2001	109,481,753		109,481,753	0%	100%
2002	100,610,139		100,610,139	0%	100%
2003	102,311,399		102,311,399	0%	100%
2004	110,663,051		110,663,051	0%	100%
2005	117,609,820		117,609,820	0%	100%
2006	123,722,881	2,335,918	121,386,963	2%	98%
2007	128,330,756	6,951,935	121,378,821	5%	95%
2008	135,819,468	2,695,409	133,124,059	2%	98%
2009	123,748,797	2,789,719	120,959,078	2%	98%
2010	122,873,014	25,400,000	97,473,014	21%	79%
2011	130,880,200	37,724,748	93,155,452	29%	71%
2012	137,225,178	40,350,000	96,875,178	29%	71%
2013	138,109,890	44,270,000	93,839,890	32%	68%
2014*	138,306,246	73,306,246	65,000,000	53%	47%
2015*	145,949,391	85,949,391	60,000,000	59%	41%
2016**	158,218,440				

*Legislative raids enacted in 2013 State Budget (PL 2013, chap. 368). **Revenue Forecasting Committee, FY 2016 projection

About MMA

Founded in 1936, the Maine Municipal Association (MMA) is a voluntary membership organization offering an array of professional services to municipalities and other local governmental entities in Maine. 487 of Maine's 492 towns and cities are currently members of the Association. MMA is a non-profit, non-partisan organization governed by a 12-member Executive Committee elected from its member municipalities. In 49 of the 50 states there is a municipal league with certain organizational similarities, but each league offers a unique array of services according to the particular interests of its municipal constituency.

MMA's services include advocacy, legal and personnel advisory services, group insurance self-funded programs, and a number of services under the "communication" umbrella including professional development and training for municipal officials, educational programming and information-sharing for the benefit of membership and the general public, and the publication of an extensive array of manuals, magazines and newsletters, data aggregations and public policy analyses.

With respect to MMA's advocacy services, the position of the Association on any legislative matter is entirely determined by a 70-member Legislative Policy Committee (LPC). The LPC is made up of two municipal officials from each of the 35 State Senate districts who are elected to serve on the LPC by the boards of selectmen and town and city councils in each district. Using a process that combines a traditional town meeting with some elements of the Legislature's own procedures, the LPC reviews and votes out a position on each bill of statewide municipal interest that is submitted to the Legislature. Those positions are transmitted to the Legislature by MMA's advocacy staff.

The Maine Municipal Association has a core belief that local government is a fundamental component – a keystone – of our democratic system of government. MMA is dedicated to assisting local governments, and the people who serve at the municipal level, in meeting the needs of their citizens and engaging as responsible partners in the intergovernmental system.



Maine Municipal Association

MMA website: www.memun.org

STATE-MUNICIPAL PARTNERSHIP PROGRAMS: PAST, PRESENT AND FUTURE



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AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 4, 2015
REGULAR MEETING – 7:00 P.M.

Order No. 15-003. Move approval of the second reading on the proposed amendments to Chapter 702 – Town of Scarborough Street Opening Ordinance, as follows:

**AMENDMENT TO CHAPTER 702
TOWN OF SCARBOROUGH
STREET OPENING ORDINANCE**

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that Chapter 702 – Town of Scarborough Street Opening Ordinance is amended as follows with strike through and underlines:

**CHAPTER 702
TOWN OF SCARBOROUGH
STREET OPENING ORDINANCE**

Section I Definitions, License, Insurance, Permit

Definitions:

The following words and phrases, when used in this article, shall have the following meanings respectively ascribed to them:

1. **Town:** ~~Shall mean~~ Town of Scarborough and/or its public works authority.
2. **Excavation:** ~~Shall mean~~ Any opening in the surface of a public place made in any manner whatsoever, except an opening in a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place. Trenchless Excavation – Any subsurface disturbance of a public place for the purpose of installation or removal of a facility that does not require a surface opening.
3. **Facility:** ~~Shall mean~~ Pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire tower, pole, pole line, anchor, cable, junction box, or any other material, structure, or object of any kind or character, whether enumerated herein or not which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under, or over any public place.
4. **Licensed excavator:** ~~Shall mean~~ Any person ~~who has been~~ issued an Excavating License by the Town of Scarborough ~~to excavate in public places in the Town.~~
5. **Newly constructed, reconstructed or repaved streets:** ~~Shall mean~~ Any street which has been newly constructed, reconstructed or repaved within the past five (5) years.
6. **Permittee:** ~~Shall mean~~ Aa person who has obtained a permit as required by this article.
7. **Public place:** ~~Shall mean~~ Any public street, way, place, sidewalk, park, square, plaza, or any other similar public property owned or controlled by the Town and dedicated to public use, and any dedicated-but-unaccepted street or way.

8. **Substructure:** ~~Shall mean~~ Any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, or any other similar structures located below the surface of any public place.
9. **Digsafe:** The one-call utility-locating organization that contractors must call, under Maine Law, before breaking the plane of the ground surface.
910. **Utility:** ~~Shall mean~~ Aa private company, corporation or quasi-municipal corporation under the direction and control of the Public Utilities Commission.

License:

- 1.—No person or utility without a valid Excavating License approved by the Town of Scarborough shall excavate in a public place ~~without holding a valid license for such work from the Town~~. The Scarborough Public Works Department ~~public works authority~~ shall issue an Excavating License ~~such license~~ upon receipt of an application ~~therefor and~~ the annual license fee, and after determining ~~having satisfied himself or herself of~~ the competency and ability of the applicant to perform excavation to the standards of the Town ~~carry on the business of excavating~~. No person or utility possessing such license shall allow his or her name to be used by any person or utility, directly or indirectly, either to obtain a permit to do any work under this license ~~;~~ provided, however, that nothing herein shall be construed to prohibit a licensed excavator from doing such work through an authorized agent or employee who is directly and continuously supervised by him while in the performance thereof. An Excavating License ~~issued to an excavator~~ may be revoked after notice and hearing, if the Town determines the ~~it is determined by the Town that the licensed~~ excavator has willfully disobeyed any portion of this article.
- 2.—The annual Excavator License fee ~~as~~ specified in the Schedule of License, Permit and Application Fees is established by the Town Council. The license is valid from January 1 to December 31 of the year issued ~~and contains no prorated provisions~~.

Insurance

- 1.—This article shall not be constructed as imposing upon the Town or any official or employee any liability or responsibility for damage to any person injured by the performance of an excavation work for which an Excavation Permit is required under this article, nor shall the Town or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work. In the case of a dedicated-but-unaccepted street or way, this article shall not be constructed as authorizing any action which is inconsistent with any private rights in said street or way, nor shall the issuance of any permit hereunder be constructed as an acceptance of said street or way by the Town for highway or any other purposes. For purposes of this section, every licensed excavator shall ~~maintain~~ at all times maintain a minimum of \$~~43~~00,000.00 public liability insurance coverage protecting himself, his agents and the Town from all such claims for damages or injuries and naming the Town as an additional insured. The Scarborough Public Works Department requires proof Evidence of such coverage prior to approval of any Excavating License ~~shall be a condition precedent to the issuance of any license hereunder and shall be submitted in a form satisfactory to the public works authority~~.

Permit

1. ~~No person or utility shall make any excavation or fill any excavation in any public place without first obtaining an approved permit ~~to do so~~ from the Town. A ~~certificate of~~ Public Liability Insurance Certificate is required prior to the issuance of any excavation permit, with a minimum of \$300,000.00 coverage naming the Town as an additional insured and a minimum coverage of \$4300,000.00 coverage is required before an Excavation Permit will be approved.~~
2. ~~No Excavation Permit shall be issued ~~unless until~~ an ~~written application on a~~ Excavating Permit "Form" ~~provided by the Town for the issuance of an excavation permit is~~ has been submitted and approved by the Scarborough Public Works Department to the Town. The form requires the following information: excavation location, property description, contractor contact information, estimated start date, utility approvals with a Digsafte number, and the signature of approval by an authorized Public Works Administrator. ~~written application shall state the name and address of the applicant, the name of the public place to be excavated and street number, the beginning date of proposed work, the type of work to be done, signatures of utility approval, the signature of Town Departments (if involved), a diagram of the planned excavation on the back of the form.~~~~
3. ~~Utilityies Companies,~~ although having to submit an application for a permit to the Town, may contact other utilities involved by phone and fill in the Excavating Permit form accordingly. ~~the authorized person doing so shall sign the application in the ap400,000ropriate place. All request forms applications shall be submitted to the Scarborough Public Works Department presented to the Town for the issuance of an excavation permit within thirty (30) days from the date of the last utility approval. Once After the expiredation of this thirty (30) day period such application shall become null and void and shall have to be renewed a request is no longer valid and the application process must be renewed.~~
4. ~~A Fees as specified in the Schedule of License, Permit and Application Fees are established by the Town Council.~~ A fee is charged for each permit issued. Each Excavating Permit is approved for work at a single location shall be paid for each issuance and for each renewal of an excavation permit.
5. ~~Excavation Work must be started no later than thirty (30) days from the approval date ~~of issue of~~ on the Excavating Permit. The permit expires after this 30-day period and must be renewed before any work can begin. After the expiration of this thirty (30) day period, such permit shall become null and void and shall have to be renewed.~~

Section II Special Conditions, Excavation, Resurfacing, Fees

Special Conditions

1. Relocation and protection of utilities

The permittee shall not interfere with any existing facility without the written consent of the Town and the owner of the facility. If it becomes necessary to relocate an existing facility, this shall be done by its owner. No facility owned by the Town shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned facilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the facility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across the work. The permittee shall secure approval of method of support and protection from the owner of the facility.

In case any of the pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this section that the permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such facility damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The Town shall not be made a party to any action because of this section. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage.

2. Protection of public property

The permittee shall not remove, even temporarily, any trees or shrubs which exist in the street area without first obtaining the consent of the appropriate Town department or Town official having control of such property.

3. Urgent Work

When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the Town shall have the full power to order, at the time the permit is granted, that a crew and adequate facilities be employed by the permittee beyond normal working hours including up to twenty-four (24) hours a day to end that such excavation work may be completed as soon as possible.

4. Emergency action

Nothing in this article shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the Town for such a permit on the first working day after such work is commenced. Before any excavation work is started, the person or utility excavating must contact ~~all utilities~~ Digsafe for on the spot locations.

5. Noise, dust and debris

Each permittee shall conduct and carry out excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of excavation work, noise, dust and unsightly debris and between the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the Town or in case of an emergency ~~as herein otherwise provided~~, any tool, appliance or equipment producing noise of sufficient volume to disturb sleep of occupants of the neighboring property.

6. Preservation of monuments

Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point, or a permanent survey bench mark within the Town, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the Town to do so. Permission to remove or disturb such monuments, reference points or bench marks shall be granted only when no alternate route for the proposed substructure or conduit is available. If the Town is satisfied that no alternate route is available,

permission shall be granted only upon condition, by an agreement in writing, that the person or utility applying for such permission shall pay all expenses incident to the proper replacement of this monument by the Town or permittee.

7. Granite and bituminous curb

No person or utility shall remove, damage, haul away or cause misalignment ~~or of~~ any bituminous curb, granite curbing, including radius curb and catch basin stones, for any reason whatsoever without first receiving written permission from the Town. Any curb missing, damaged or misaligned shall be replaced or aligned ~~by the Town at the rate set forth herein and will be charged to the permittee; provided, however, that the Town, at its option, may allow~~ the permittee to replace or realign that portion of curb by the permittee's excavation. In such event, replacement or realignment shall be done in a manner and under specifications prescribed by the Town and subject to inspection by the Town and shall be completed within a period of ninety (90) days after such authorization to complete work. The permittee shall, for a period of three (3) years thereafter, be fully liable for all defects in materials and workmanship relating to such work and shall promptly repair or replace the same upon notice of the Scarborough Public Works Department ~~public-works authority~~ and to the satisfaction thereof.

8. Maintenance of drawings

Every person or utility owning, using, controlling, or having an interest in substructures, under the surface of the public way used for the purpose of supplying or conveying gas, electricity, communication, impulse, water, steam, ammonia or oil in the Town, shall file with the Town, a map or set of maps each drawn to a scale of not less than one (1) inch to fifty (50) feet, showing in detail the plan, location, size and kind of installation, if known, of all new or renewed substructures, except service lines designed to serve single properties. These maps shall be provided to the Town no later than sixty (60) days after the completion date of construction. The same information shall be provided in a geo-reference CAD file.

9. Annual work program to be submitted by utilities

Each year on or before March thirty-first, each utility shall submit to the Scarborough Public Works Department ~~public-works authority~~ its planned work program for the ensuing year, which shall not include emergencies and normal house service lines. Thereafter, no permit shall be issued to a utility for excavations not contained within its planned work program, except for emergencies and house service lines, until a prior written application for such excavation shall have been submitted to and approved by the Scarborough Public Works Department ~~public-works authority~~.

Excavation

1. Clearance for vital structures

The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, traffic signal cables and loops and all other vital equipment as designated by the Town.

2. Protective measures and routing of traffic

a. Safe crossings.

The permittee shall in general maintain safe crossings for two (2) lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians. If any excavation is made across any public street or sidewalk, adequate crossings shall be maintained for vehicles and pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along such sidewalk line.

b. Barriers and warning devices.

It shall be the duty of every permittee cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for safety of the general public. Traffic control in the vicinity of all excavations affecting vehicular, pedestrian and bicycle traffic shall be subject to final review and approval of the Scarborough Public Works Department. Barriers, warning signs, lights, etc., shall conform to the latest edition of the "Manual on Uniform Traffic Control Devices". Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not replace light sources.

c. Normalizations of traffic conditions.

The permittee shall take appropriate measures to assure that during the ~~performance of~~ the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

d. Closing of streets.

When traffic conditions permit, the Scarborough Public Works Department, with the approval of the Scarborough police and fire departments ~~of the Town~~, may ~~be written approval (or by verbal approval in case of emergency)~~, permit the closing of streets to all traffic for a period of time ~~if prescribed by him or her, if in his or her opinion it is~~ necessary. ~~The W~~ritten approval of the Scarborough Public Works Department may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given. In case of emergency on week nights, weekends or holidays the utility company having such emergency shall contact the Scarborough police and fire departments by phone before closing a street to traffic.

e. Interference with arterial streets.

~~Unless an emergency condition exists construction activities of T~~he permittee ~~is also informed that construction activities (unless an emergency condition exists)~~ shall not interfere with the normal flow of traffic on arterial streets of the Town of Scarborough. The full in-bound roadway lane width shall be maintained between the hours of 6:45 a.m. and 8:30 a.m. and the full out-bound roadway lane width shall be maintained between the hours of 4:00 p.m. and 5:45 p.m.

f. Shifting traffic to opposite side.

~~The~~ permittee may shift traffic to the opposite side of the roadway to maintain required lane width. The permittee may only make such shift with the approval of the Scarborough Public Works Department

following proper review of detour plans to insure adequate safe two-way traffic flow and proper number and placement of police officers.

3. Breaking through pavement in streets and sidewalks

- ~~a.~~ All excavations on paved street and sidewalk surfaces shall be pre-cut in a neat straight line with pavement breakers, saws, or asphalt cutters.
- ~~b.~~ Heavy duty pavement breakers may be prohibited by the Town when the use endangers existing substructures or other property.
- ~~c.~~ Cutouts of the trench lines must be normal or parallel to the trench line.
- ~~d.~~ Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.
- ~~e.~~ Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.
- ~~f.~~ The permittee shall not be required to pay for repair of pavement damage existing prior to the excavation unless ~~his or her~~ the cut results in small floating sections that may be unstable, in which case, the permittee shall remove the unstable portion and the area shall be treated as part of the excavation.
- ~~g.~~ When three (3) or more street openings are made in sequence (fifteen (15) feet or less, center to center, between each adjacent opening), the permittee shall neatly cut and remove the area of pavement between these adjacent openings and shall patch as one trench.
- ~~h.~~ On concrete sidewalks, all cuts shall be made from the nearest joint or score line on one side of the excavation to the nearest joint or score line on the other side of the excavation.

4. Care of excavated material

- a. All material excavated from trenches and piled adjacent to the trench or ~~in~~ on any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the Town shall have the authority to require that the permittee haul the excavated material to a storage site and then re-haul it to the trench site at the time of backfilling.
- b. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.
- c. All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the Town. Whenever necessary in order to expedite the flow of traffic or to abate the dirt or dust nuisance, the boards or bins may be required by the Town to prevent the spreading of dirt into traffic lanes.

5. Backfilling of excavation

Crushed stone or sand shall be used to bed and backfill all underground utilities and shall be thoroughly compacted under, around and to a minimum of 6 inches above the structure. After being properly bedded, the backfill material for all other substructures shall be of a fine material, free from lumps, frozen

materials and no stones larger than four (4) inches in diameter. All backfill materials shall be placed in eight (8) to ten (10) inch lifts and thoroughly compacted with approved mechanical compactors. Within eighteen (18) inches of the subgrade of the pavement, gravel shall be used as backfill material consisting of fifteen (15) inches of bankrun and three (3) inches of crushed or screened gravel in accordance with the Town's specifications. The Town may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in its opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements as prescribed by the Town. All expense of such tests shall be borne by the permittee.

6. Trenches

The maximum length of open trench in an excavation permissible at any time shall be two hundred (200) feet, and no greater length shall be opened for pavement removal, excavation, construction, backfilling, patching or any other operation without the written permission of the Town.

7. Prompt completion of work

~~After~~ Once an excavation has begun ~~is commenced~~, the permittee shall ~~prosecute with diligence and~~ expedite all excavation work covered by the excavation permit, ~~and~~ shall promptly complete ~~such the~~ work and restore the street ~~as specified~~ in accordance with this article. The permittee shall perform such restoration work so as not to obstruct, impede or create a safety hazard to public travel by foot or vehicle.

8. Winter Excavations ~~during winter~~

No person or utility shall be granted a permit to excavate or open any street or sidewalk from ~~the time~~ ~~of~~ November first of each year to April fifteenth of the following year unless an emergency or special condition exists and permission is obtained in writing from the Town. Any person or utility wishing to obtain a street opening permit between these aforementioned dates shall first explain fully in writing the emergency situation existing to the Town ~~before issuance is granted~~. If a hazardous condition, ~~which could endanger~~ ing life or property exists, excavation work shall not be delayed by this section. ~~However,~~ Hhowever, a written explanation shall be delivered to the Town as soon as possible to obtain a permit and a street opening permit obtained for the opening made.

9. Manholes and/or catch basins

No person or utility shall remove, damage, haul away, or otherwise disturb any manhole and/or catch basin castings, frames, and/or covers owned by the Town without first receiving written permission from the Town. Any manhole and/or catch basin castings, frames and/or covers missing, damaged, or disturbed shall be repaired and/or replaced by the permittee in accordance with the specifications set forth by the Scarborough Public Works Department.

10. Excavations in reconstructed streets

Whenever the Town has developed plans to reconstruct a street, the Town or its representative shall give written notice ~~thereof~~ to all abutting property owners, to the Town departments, and to all public utilities which have, ~~or want, may wish~~ to lay pipes, wires or other facilities in or under the highway. Upon receipt of such written notice, such person or utility shall have sixty (60) days in which to install or lay any such facility. If an extension of time is needed by a person or utility for the installation of such facilities, the person or utility shall make a written application to the Town explaining fully the reasons for requesting such an extension of time. At the expiration of the time fixed and after such street has

been reconstructed, no permit shall be granted to open such street for a period of five (5) years unless an emergency condition exists or unless the necessity for making such installation could not reasonably have been foreseen at the time such notice was given. The above mentioned five (5) year moratorium for street openings also pertains to all new public or private streets, i.e. new subdivisions or developments that have been accepted in accordance with the Town specifications.

11. Incurred expenses through repairing and backfilling by Town

a. If the work or any part thereof mentioned in this article for repairing or backfilling the trenches or excavations shall be unskillfully or improperly done, the Town shall cause the same to be skillfully and properly done, and shall keep an account of the expense thereof, and in such case such person or utility shall pay the Town an amount equal to the whole of the expense incurred by the Town with an additional amount of fifty (50) percent. Thereafter, upon completion of the work and the determination of the costs thereof, the Town shall not issue any additional ~~no further or new~~ permits to any person or utility until receipt of payment due ~~it shall receive payment of the costs.~~

b. Any person or utility who continues to violate any section of this article shall receive no further permits until such time as the Town is satisfied that the person or utility shall comply with the terms of this article.

12. Resurfacing of streets and sidewalks

~~a. Permanent resurfacing by the Town.~~

~~Permanent resurfacing of excavations in streets shall be made by the Town.~~

a b. Temporary resurfacing by the permittee.

The top surface of backfill shall be covered with four (4) inches compacted depth of bituminous temporary resurfacing material, by the permittee. Such temporary paving material shall be cold mix, except that the permittee may use or the Town may require hot mix. All temporary paving material shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it, as well as for vehicular traffic to pass safely over it at a legal rate of speed. The permittee shall maintain the temporary paving and shall keep same safe for pedestrian and vehicular traffic until the excavation has been resurfaced. ~~with permanent paving by the Town, except~~ if it is not possible to maintain the surface of the temporary paving in a safe condition for pedestrian and vehicular traffic, then the permittee shall maintain barriers and lights where necessary ~~required herein.~~

b e. Permanent resurfacing by the permittee.

Upon completion of all excavation ~~the backfilling and temporary resurfacing of an excavation within a public place for the installation or removal of a substructure, the Town, at its option, may allow~~ the permittee shall ~~to~~ permanently resurface that portion of the street surface damaged by the permittee's ~~excavation.~~ In such event, permanent resurfacing shall be done ~~in a manner and~~ under specifications prescribed by ~~the Town~~ and subject to inspection by the Scarborough Public Works Department. Completion is required ~~Town and shall be completed~~ within a period of ninety (90) days after such authorization to complete final resurfacing. If such permanent resurfacing is satisfactory to the Scarborough Public Works Department ~~Town~~, all charges for resurfacing except for permit fees, ~~long-term maintenance reserves and Town inspection charges, as herein set forth,~~ will be canceled. The permittee shall, for a period of three (3) years thereafter, be fully liable for all defects in materials and

workmanship relating to such resurfacing and shall promptly repair or replace the same upon notice of the public works authority and to the satisfaction thereof.

13. Inspection

The Town shall make such inspections as are reasonably necessary in the enforcement of this article. The Town shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this article.

Fees and Charges

1. Fee:

A fee as specified in the Schedule of License, Permit and Application Fees established by the Town Council, shall be paid for each excavation permit issuedance or renewed ~~and for each renewal of an excavation permit.~~

2. Cost of Replacement:

After openings cCharges shall be established by order of the Town Council to cover replacement costs ~~the cost of replacement~~ of the street or sidewalk after openings. Under this article, ~~which~~ charges shall not be in excess of the reasonable cost of such replacement.

3. Special Conditions:

a. Where three (3) or more street openings are made in sequence (fifteen (15) feet or less, center to center, between each adjacent opening), the permittee shall be charged for one opening measured from the first opening to the last opening.

b. ~~For If the~~ street openings exceeding fifty (50) square yards, a utility company or contractor may request, in writing, the Town's permission to contract privately for the street or sidewalk repairs. If the Town agrees, the contractor shall post a letter of credit for the actual amount of the street opening times the appropriate unit rate established or as approved by the Scarborough Public Works Department public works authority. The letter of credit shall be for a period of one year or as otherwise approved by the Scarborough Public Works Department public works authority and shall be retained by the Town for the period of time. Upon notification from the public works authority, that the repairs have been accepted, the Town shall release the letter of credit to the contractor. Street repair ~~work~~ must be done in accordance with the Town's specifications and is subject to inspection by a Town representative.

c. The Town shall provide an on-the-job inspector to supervise all excavation, ~~backfilling~~ of temporary or permanent repairs. The permittee shall be charged ~~at~~ the appropriate hourly inspector's rate ~~of the inspector~~, plus thirty-five (35) percent overhead for the services of such inspector.

~~d. In streets where the Town has installed a new sanitary sewer or storm drain and the pavement on such streets is in need of major repair, the Town may waive up to fifty (50) percent of the total street opening repair charge to utilities and individuals having work to do on such streets.~~

Billing Procedures

~~1.~~ Upon completion of the excavation work and after ground settlement has stabilized, the size of the opening will be measured ~~a measurement shall be made~~ by the Scarborough Public Works Department

~~Town of the size of the opening~~ The Town's long-term cost to maintain the opening are calculated by multiplying the size of the road cut (total square yards) by the appropriate rate as set forth herein. ~~and a bill will be mailed to the permittee depending upon the costs of the opening to be repaired. Cost of repair of the opening will be a factor of the total number of square yards multiplied by the appropriate rate as set forth herein.~~ An invoice is generated and mailed to the permittee. Invoices ~~Bills~~ rendered in accordance with this section shall be due and payable by the permittee immediately upon receipt thereof. If a permittee does not pay ~~any~~ such ~~invoice bill~~ within thirty (30) days of receipt, the Town shall issue no further permits to ~~any such~~ permittee until ~~it receives~~ payment ~~has been received of such outstanding bill.~~

**Town of Scarborough
STREET OPENING FEE SCHEDULE**

Street Opening Charges

As specified in the Schedule of License, Permit and Application Fees established by the Town Council.

Sidewalk and Driveway Opening Charges

As specified in the Schedule of License, Permit and Application Fees established by the Town Council.

Curbing

As specified in the Schedule of License, Permit and Application Fees established by the Town Council.

Other Charges

As specified in the Schedule of License, Permit and Application Fees established by the Town Council.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 4, 2015
REGULAR MEETING – 7:00 P.M.

Order No. 15-005. Move approval of the second reading the proposed amendments to the Chapter 1301, the General assistance Ordinance, pursuant to Title 22, M.R.S.A §4305 (4), as follows:

Town of Scarborough, Maine

U S R O U T E O N E , P O B O X 3 6 0
S C A R B O R O U G H , M A I N E • 0 4 0 7 0 - 0 3 6 0

TO: Scarborough Town Council

FROM: Yolande P. Justice, Town Clerk

RE: 2014-2015 General Assistance Ordinance Maximums for Food and Housing

DATE: January 30, 2015

Attached please find General Assistance Ordinance Maximums for Food and Housing as set forth by State:

Appendix A – GA Overall Maximums
Appendix B – Food Maximums
Appendix C – GA Housing Maximums [Heated & Unheated Rent]
Appendix D, E & F – Utilities [Amended at first reading to be included at the January 21st Town Council Meeting.]

As required by State Statute each Municipality must act on these appendices.

GA Overall Maximums

Metropolitan Areas

COUNTY	Persons in Household				
	1	2	3	4	5*
Bangor HMFA: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	603	725	874	1,096	1,261
Penobscot County HMFA: Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	585	585	699	942	1,089
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	537	635	829	1,044	1,107
Portland HMFA: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	762	901	1,163	1,463	1,565
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	950	952	1,138	1,656	1,801
Cumberland County HMFA: Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	633	742	954	1,260	1,501

Appendix A
Effective: 07/01/14-06/30/15

COUNTY	1	2	3	4	5*
Sagadahoc HMFA: Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	753	751	899	1,131	1,551
York County HMFA: Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells	689	714	903	1,206	1,248

*Note: Add \$69 for each additional person.

Non-Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Aroostook County	514	547	653	851	941
Franklin County	564	593	720	867	1,232
Hancock County	603	693	854	1,130	1,161
Kennebec County	517	598	764	964	1,027
Knox County	709	719	877	1,124	1,275
Lincoln County	660	727	916	1,140	1,223
Oxford County	551	610	735	992	1,284
Piscataquis County	573	651	802	1,016	1,086
Somerset County	582	608	724	985	1,001
Waldo County	643	687	826	1,027	1,091
Washington County	552	593	707	874	1,058

* Please Note: Add \$69 for each additional person.

Appendix B

Effective: 10/01/14 to 09/30/15

Food Maximums

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. Through September 30, 2015, those amounts are:

Number in Household	Weekly Maximum	Monthly Maximum
1	45.12	194
2	83.02	357
3	118.84	511
4	150.93	649
5	179.30	771
6	215.12	925
7	237.67	1,022
8	271.86	1,169

Note: For each additional person add \$146 per month.

Appendix C

Effective: 10/01/14-10/01/15

GA Housing Maximums (Heated & Unheated Rents)

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

Non-Metropolitan FMR Areas

<u>Aroostook County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		84	362	107	461
1		84	362	113	487
2		99	426	136	584
3		134	575	179	770
4		143	614	197	848
<u>Franklin County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		96	412	119	511
1		97	418	124	533
2		115	493	151	651
3		137	591	183	786
4		210	905	265	1,139
<u>Hancock County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		105	451	126	543
1		117	503	145	625
2		145	622	180	776
3		197	845	241	1,038
4		197	845	245	1,054
<u>Kennebec County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		83	359	106	457
1		94	404	123	530
2		123	529	160	686
3		159	685	203	872
4		159	685	214	920

Appendix C

Effective: 10/01/14-10/01/15

Non-Metropolitan FMR Areas

<u>Knox County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		128	552	151	649
1		128	552	151	651
2		150	645	186	799
3		197	846	240	1,032
4		209	899	272	1,168
<u>Lincoln County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		119	513	140	600
1		124	535	153	659
2		159	684	195	838
3		200	862	244	1,048
4		207	889	260	1,118
<u>Oxford County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		89	382	114	491
1		101	434	126	542
2		113	487	153	657
3		161	693	209	900
4		216	928	274	1,179
<u>Piscataquis County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		98	421	111	479
1		108	465	125	539
2		134	575	154	663
3		172	740	196	844
4		176	759	205	881
<u>Somerset County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		100	432	123	529
1		100	432	127	548
2		116	498	152	655
3		166	714	210	904
4		166	714	211	908

Appendix C
Effective: 10/01/14-10/01/15

Non-Metropolitan FMR Areas

<u>Waldo County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		116	497	136	583
1		119	510	144	619
2		139	597	174	748
3		174	749	217	935
4		176	758	230	987

<u>Washington County</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		93	402	114	492
1		95	410	122	525
2		108	465	146	629
3		134	575	182	782
4		163	703	222	954

Metropolitan FMR Areas

<u>Bangor HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		101	432	126	543
1		120	518	153	657
2		145	625	185	796
3		184	790	233	1,004
4		210	904	268	1,154

<u>Penobscot County HMFA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		99	424	122	525
1		99	424	122	525
2		104	448	144	621
3		148	636	198	850
4		169	725	228	982

<u>Lewiston/Auburn MSA</u>		<u>Unheated</u>		<u>Heated</u>	
Bedrooms		Weekly	Monthly	Weekly	Monthly
0		89	381	111	476
1		103	445	132	566
2		139	597	175	751
3		178	766	221	952
4		180	774	233	1,003

Appendix C
Effective: 10/01/14-10/01/15

Metropolitan FMR Areas

<u>Portland HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	142	611	163	702		
1	166	715	194	833		
2	214	922	252	1,085		
3	271	1,165	319	1,371		
4	274	1,180	339	1,458		
<u>York/Kittery/S. Berwick HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	181	779	207	890		
1	181	779	207	890		
2	206	887	247	1,060		
3	314	1,350	364	1,564		
4	334	1,434	394	1,694		
<u>Cumberland County HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	111	479	133	573		
1	131	563	157	674		
2	167	720	204	876		
3	228	982	272	1,168		
4	271	1,167	324	1,394		
<u>Sagadahoc County HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	140	603	161	693		
1	140	603	161	693		
2	155	667	191	821		
3	192	825	242	1,039		
4	276	1,187	336	1,444		
<u>York County HMFA</u>			<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly	Weekly	Monthly
0	126	541	146	629		
1	126	541	150	646		
2	156	672	192	825		
3	216	928	259	1,114		
4	216	928	266	1,143		

UTILITIES (Appendix D)

ELECTRIC

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

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

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.70	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

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

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

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

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

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

HEATING FUEL (Appendix E)

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

FOR MUNICIPAL USE ONLY

NOTE: When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 6 tons of coal per year, 7 cords of wood per year, 113,400 cubic feet of natural gas per year, or 900 gallons of propane.

PERSONAL CARE & HOUSEHOLD SUPPLIES
(Appendix F)

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

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

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

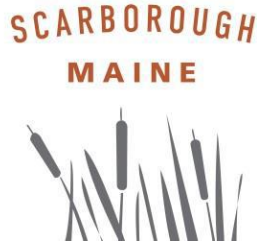
When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<u>Number of Children</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.300	\$100.00
4	\$27.90	\$120.00

FOR MUNICIPAL USE ONLY

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 4, 2015
REGULAR MEETING – 7:00 P.M.

Order No. 15-007. Move approval of the first Reading and refer to the Planning Board, the proposed amendments to Chapter 405-the Scarborough Zoning Ordinance, establishing a new Section VIIG. Historic Preservation Provisions - which would create a local list of historic properties and provide for zoning and building code incentives for preservation of these historic resources and schedule the public hearing following the filing of the recommendations from the Planning Board, as follows:



To: Town Councilors
CC: Tom Hall, Town Manager and Historic Preservation Committee
From: Dan Bacon, Planning Director
Date: January 26, 2015

Proposed Historic Preservation Zoning Amendments

As recently discussed at a Council workshop on January 7th, the Historic Preservation Committee (HPC) and planning staff have worked to create a local list of historically significant resources as well as some zoning and building code incentives to encourage, but not require, the preservation of these historic buildings and structures.

The following are the three key elements of these historic preservation zoning amendments:

- **Proposed List of Locally Significant Historic Properties**

This zoning amendment includes a local list of historically significant properties that has been created by the HPC using a criteria based on the age of the buildings, architectural significance, and historical significance of people and/or events associated with the property. As proposed, this list will be the identifier of the eligible properties that can take advantage of the residential density credit and building code exceptions for historic buildings, as well as the basis of what properties are reviewed by the Planning Board to consider whether the buildings can be preserved (rather than demolished) if they trigger development review.

- **Residential Density Credit for Historic Preservation**

As a means to incentivize, or at least hold harmless, the preservation of a historic building in a new residential development, these zoning amendments include a residential density credit that enables a developer to get “credit” for preserving a historic building (and surrounding lot), and doesn’t have to deduct that land area when it is calculated how many lots or dwelling units are possible in a subdivision or development project.

- **Building and Fire Protection Code Exceptions**

A few of the building and fire protection codes used by the Town allow for specific exceptions for historic buildings that are formally designated or registered at the local, state or federal level. The proposed zoning amendments formally establish that the local list of historically significant resources are eligible to use these code exceptions, which can practically and economically help with the rehab of a historic building as well as enable a historic building to maintain some of its historic character that may not otherwise be allowed under contemporary building codes.

On behalf of the HPC, I thank you for your consideration of this proposal.

Dated 1-28-15

Proposed Amendments to the Zoning Ordinance to Establish a List of Locally Significant Historic Properties and Incentives for Preservation

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to the Zoning Ordinance of the Town of Scarborough, Maine, be and hereby are adopted:

1. Add a new SECTION VIIG. HISTORIC PRESERVATION PROVISIONS to the Zoning Ordinance as follows:

SECTION VIIG. HISTORIC PRESERVATION PROVISIONS

A. PURPOSE

This section provides an inventory of the buildings and properties that the Town Council has identified as significant historical resources that contribute to the history, culture, identity and general welfare of the Town of Scarborough. In addition to identifying locally historic buildings and properties, the purpose of these provisions are to also provide zoning and land use measures and incentives to preserve, protect and enhance these community resources.

B. HISTORICAL PROPERTIES

The following is a list of buildings and properties of historical significance (“significant historical resources”) that have been designated by the Scarborough Town Council:

<i>Street Address</i>	<i>Assessors Map/Lot</i>	<i>Current or Historical Property Name</i>
193 Beech Ridge Rd	R021005	Merry Farm
213 Beech Ridge Rd	R012012	Meserve Homestead
132 Black Point Rd	R081014	Causeway Church
255 Black Point Rd	U014014	Cobble Stone House
319 Black Point Rd	R090010	Foss Homestead
428 Black Point Rd	R103010	Cobble Stone House
81 Black Point Rd	R073012	Hunnewell House
79 County Rd	R015078	Ralph Temm Homestead
80 County Rd	R015014	North Scarborough Grange
450 County Rd	R002005D	Universalist Church and Parsonage
1 Dresser Rd	R031020B	John Libby Homestead

Dated 1-28-15

12 Dunstan Landing Rd	U033013	Lettie Merrill Homestead
13 Dunstan Landing Rd	U033029	Noah Pillsbury Homestead
18 Dunstan Landing Rd	U033014	Jonathan Pilsbery Homestead
37 Dunstan Landing Rd	R065003	Old Fabyan House
49 Elmwood Ave	R057001	Owen Leighton House
4 Highland Ave	R081016	Abraham Plummer
184 Holmes Rd	R022009	Beech Ridge School
23 Hunnewell Rd	U048028	2nd Hunnewell House
22 King St	U022079	Ebb Tide (formerly Phoenix)
100 Manson Libby Rd	R062006	Samuel Manson Libby Homestead
42 Manson Libby Rd	R062001	Libby Mitchell Post 76
34 Ocean Ave	U002171	Higgins Beach Inn
237 Pine Point Rd	U026049	1840 House
211 Pine Point Rd	U026058	The Old Maine House
248 Pine Point Rd	U025042	Old Blue Point Church
212 Pine Point Rd	U025002	John Harris Seavey House
265 Pine Point Rd	U024052	Proctor House
272 Route One	U041002	Bessey School
397 Route One	U038011	Dr. Haigis House
577 Route One	U034037	Southgate House
581 Route One	U034036	Southgate Barn
591 Route One	U034033	Dunstan School
605 Route One	U034029	Wayland
725 Route One	U029007	Ezra Carter Farm
720 Route One	U029001	Mulbery Milliken Tavern
674 Route One	U032034	One Room Dunstan Schoolhouse
626 Route One	U032001	Dr. Bacon House
672 Route One	U032033	Benjamin Chadwick House
656 Route One	U032011	Dunstan Church (W Scar Methodist Ch)
647 Route One	U031033A	Scarborough Historical Society

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649 Route One	U031033	Dunstan Grange Hall
152 Spurwink Rd	R098016	Ivory Kilburn House
178 Spurwink Rd	R098023	Mitchell Farm
194 Spurwink Rd	R097002	Stanford House
2 Two Rod Rd	R049013	Scottow Hill Schoolhouse
122 Two Rod Rd	R032001	Blossom Place
5 Winslow Homer Rd	U002044	Winslow Homer Studio

The standards the Town Council used in designating these properties as significant historical resources included: the age of the structure(s) on the property; the historical significance of the design and architectural features of the structure(s) on the property; the historical significance of the people associated with the property; and the historical significance of events associated with the property. This list of significant historical resources may be reviewed and updated by the Town Council from time to time by utilizing these standards as review criteria. When conducting a review and update to this list the Town Council may consult with the State Historic Preservation Office, the Scarborough Historical Society, and/or a similar organization with background in historic preservation for information and guidance on compliance with these standards.

C. RESIDENTIAL DENSITY CREDIT FOR HISTORIC PRESERVATION

As an incentive to encourage the preservation of significant historical resources as identified by the Town of Scarborough as listed above, a property that includes the preservation of such significant historical resources may utilize a residential density “credit” in accordance with the following provisions and through Planning Board review and approval:

1. The subdivision or development plan shall be designed in a manner that preserves the identified significant historical resource and maintains, or improves, its historical nature and integrity. In the case of a historical building or structure that is in poor condition or disrepair, improvements may be necessary to repair or renovate the building or structure to restore its historical integrity, enable the long term preservation of the building or structure, and/or make it available for occupancy as determined by the Planning Board. The Planning Board shall also review and approve the form of long term preservation of the resource, which can be achieved by: establishing a historic preservation easement; by deed restriction; by donation to the Scarborough Historical Society, the Town of Scarborough, or similar organization with the mission of historic preservation; or by other means achieving long term preservation.
2. As part of the development review process the Planning Board shall review and approve the amount of land area necessary to preserve the significant historical resource (the “Preservation Lot”). The Planning Board shall ensure the land area is adequate to preserve the resource and configured to reasonably protect its historical significance. Unless already an existing legally nonconforming lot, the Preservation Lot shall be equal to the minimum lot area required for the zoning district it is in, unless the Planning Board determines

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additional land is required to preserve the significant historic resource due to certain landscape or other features.

3. Upon approval of the Preservation Lot by the Planning Board, the total number of dwelling units allowable within the remainder of the subdivision or development shall be increased by the number of dwelling units that exist within the historic building and/or are allowed for on the Preservation Lot, calculated by applying the net residential density requirement of the applicable zoning district to the net residential area of the Preservation Lot alone. This residential density increase, or “credit”, for the remainder of the subdivision or development shall be in addition to the existing and/or allowed residential density within the historic building and/or on the Preservation Lot, as an incentive to encourage the preservation of the significant historic resource.

D. BUILDING CODE EXCEPTIONS

The Maine Uniform Building and Energy Code (MUBEC) and the National Fire Protection Association Codes (NFPA) may provide for specified code exceptions for historic buildings that are designated by a local jurisdiction or municipality as a means for helping enable the preservation of historic buildings and their character and construction. This subsection establishes that the inventory of significant historical resources listed under subsection B. above shall qualify as historic buildings under MUBEC and NFPA exceptions, unless otherwise excluded from these exceptions in the code standards.

2. Amend Section VIIIE. ADDITIONAL REQUIREMENTS FOR PLANNED DEVELOPMENTS subsection E. MASTER PLAN PHASE, 2. as follows (proposed additions to the ordinance are underlined; proposed ~~deletions~~ are struck through):

g) Any historic or archeological resource that has been identified by the Maine Historic Preservation Commission, the Town’s adopted Comprehensive Plan, or CouncilSection VIIIG. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance should be preserved and incorporated into the development plan in a manner that retains its historic or archeological value if feasible. If an identified resource will be removed or will be altered in a manner that diminishes its historic or archeological value, the burden is on the applicant to demonstrate that options for preserving the resource have been explored. The Planning Board, Planning Department, and the applicant may consult the State Historic Preservation Office, the Scarborough Historical Society, or similar organizations with the mission of historic and archeological preservation on options for preserving the resource. If the resource will be removed, the applicant must demonstrate that reasonable efforts have been made to preserve the resource value or relocate it to another location.

3. Amend Section VIIIE. ADDITIONAL REQUIREMENTS FOR PLANNED DEVELOPMENTS subsection D. SITE INVENTORY AND ANALYSIS PHASE, as follows (proposed additions to the ordinance are underlined; proposed ~~deletions~~ are struck through):

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11. The approximate locations of all culturally, historically or archaeologically significant buildings, features, or sites. In particular, buildings, features or sites listed by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or Council Section VIIG. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance ~~other list of local historic and/or archeological resources adopted by the Town Council~~ shall be identified.

Proposed Amendments to Chapter 405B Site Plan Review Ordinance Regarding Historic Preservation

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to the Site Plan Review Ordinance of the Town of Scarborough, Maine, be and hereby are adopted:

1. Amend subsection C. Submission Requirements in section III. Administrative & Review Procedures as follows (proposed additions to the ordinance are underlined; proposed ~~deletions~~ are struck through):

12. The location and description of all historic and archeological resources on the parcel as identified by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or ~~other list of local historic and/or archeological resources adopted by the Town Council~~ Section VIIG. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance together with a narrative describing how these resources can be preserved and incorporated into the development plan. If an identified resource will be removed, altered, or not included as part of the development plan, a statement shall be provided as to why the resource cannot be preserved and the options considered but rejected for including it as part of the development plan.

2. Amend section IV. Performance & Design Standards as follows (proposed additions to the ordinance are underlined; proposed ~~deletions~~ are struck through):

M. Preservation of Historic and Archeological Resources

Any historic or archeological resource that has been identified by the Maine Historic Preservation Commission, the Town's adopted Comprehensive Plan, or Section VIIG. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance ~~other list of local historic and/or archeological resources adopted by the Town Council~~ should be preserved and incorporated into the development plan in a manner that retains its historic or archeological value if feasible. If an identified resource will be removed or will be altered in a manner that diminishes its historic or archeological value, the burden is on the applicant to demonstrate that options for preserving the resource have been explored. The Planning Board, Planning Department, and the applicant may consult the State Historic Preservation Office, the Scarborough Historical Society, or similar organizations with the mission of

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historic and archeological preservation on options for preserving the resource. If the resource will be removed, the applicant must demonstrate that reasonable efforts have been made to preserve the resource value or relocate it to another location.

Proposed Amendments to Chapter 406 Subdivision Ordinance Regarding Historic Preservation

BE IT HEREBY ORDAINED by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following amendments to the Subdivision Ordinance of the Town of Scarborough, Maine, be and hereby are adopted:

Proposed additions to the ordinance are underlined; proposed ~~deletions~~ are struck through.

1. Amend subsection 7.2. in Section 7. Preliminary Plan Requirements and Procedures by adding a new item p to read:

(p) The location and description of all historic and archeological resources on the parcel as identified by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or Section VIIG. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance~~other list of local historic and/or archeological resources adopted by the Town Council~~ together with a narrative describing how these resources can be preserved and incorporated into the subdivision plan. If an identified resource will be removed, altered, or not included as part of the subdivision plan, a statement shall be provided as to why the resource cannot be preserved and the options considered but rejected for including it as part of the plan.

2. Amend Section 6. General Requirements by adding a new subsection 6.8 to read:

6.8 Any historic or archeological resource that has been identified by the Maine State Historic Preservation Office, the Town's adopted Comprehensive Plan, or Section VIIG. Historic Preservation Provisions of the Town of Scarborough Zoning Ordinance~~other list of local historic and/or archeological resources adopted by the Town Council~~ should be preserved and incorporated into the subdivision plan in a manner that retains its historic or archeological value if feasible. If an identified resource will be removed or will be altered in a manner that diminishes its historic or archeological value, the burden is on the applicant to demonstrate that options for preserving the resource have been explored. The Planning Board, Planning Department, and the applicant may consult the State Historic Preservation Office, the Scarborough Historical Society, or similar organizations with the mission of historic and archeological preservation on options for preserving the resource. If the resource will be removed, the applicant must demonstrate that reasonable efforts have been made to preserve the resource value or relocate it to another location.

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 4, 2015
REGULAR MEETING – 7:00 P.M.

Order No. 15-008. Move approval on the names posted to the various Committees/Boards at the Town Council meeting of January 21, 2015, by the Appointments Committee, as follows:

Energy Committee:

Move David Kirstein from 1st Alternate to a full voting member – term to expire in 2015 and Michael Wallace from 2nd Alternate to a full voting member – term to expire in 2016.

Housing Alliance:

Appoint Timothy Peters as a full voting member – term to expire in 2015.

**AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 4, 2015
REGULAR MEETING – 7:00 P.M.**

Order No. 15-009. Move approval on the request from the Shellfish Commission to approve the Allocations of Shellfish Licenses for 2015, as follows:

The proposed allocation are as follows:

	<u>2014 Proposed Allocations</u>	<u>2013 Allocations</u>
• Resident Commercial License:	30	29
• Non – Resident Commercial Licenses:	3	4
• Over 60 Commercial Bushel Licenses:	1	3
• Resident Student Commercial License:	10	10
• Non- Resident Student Commercial License:	1	1
• Resident Recreational Licenses:	200	200
• Non- Resident Recreational License:	20	20
• Day Permits:	10 per day	10 per day

AGENDA
SCARBOROUGH TOWN COUNCIL
WEDNESDAY – FEBRUARY 4, 2015
REGULAR MEETING – 7:00 P.M.

Order No. 15-010. Move approval on the request to approve the 2015 Town Council Goal, as follows:

2015 Scarborough Town Council Goals

*** *Responsible & Realistic Budget:***

- Maintain Essential Services
- Avoid Layoffs
- Re-Develop Staffing Plans
- Level Service vs. New Initiatives
- Recognize Fiscal Constraints
- Consider Non Property Tax Revenues
- Maximize Value
- Trade-Off Conversations
- Stability in Tax Rate
- Capital/Long-term Planning

****Maintain/Strengthen Legislative Relationships***

- Budget Implications

****Town-Wide Revaluation***

****Economic Development:***

- Coordinate with SEDCO
- Diversify Tax Base
- Business Retention and Expansion
- Business Visitation
- Explore “Business-Friendly” Designation
- Ordinance Review – Zoning, Policies and Fees
- High-Speed Internet
- Focus on Haigis Parkway

****Benchmarking:***

- Financial
- Demographic – “By the Numbers”

****All Committee Summit:***

- Bi-Annual

****Master Plan:***

- Long Range Facility Plan

****Survey of Services***

****Improve Communication:***

- Civic Engagement Strategy
- Promote Open Government -Transparency

****Affordable/Work Force Housing:***

- Lesson Learned – New Strategies

*Goals are not listed in order of priority.