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SOUTH PORTLAND CODE OF ORDINANCES

Chapter 10

HEALTH, WELFARE AND SANITATION GENERALLY*

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* **Charter reference(s)--**Health and public welfare departments created, § 304; department heads to administer departments, § 305; director of public welfare, generally, § 306; health officer, generally, § 307.

Cross reference(s)--Animals and fowl, Ch. 3; garbage and refuse, Ch. 9; house-car trailers and trailer camps, Ch. 11; housing, Ch. 12; food, food handlers and food service establishments, § 14-100 et seq.; nuisances, generally, Ch. 16; parks and recreation, Ch. 18; plumbing, Ch. 20; sewers and drains, Ch. 22; swimming pools and wading pools, Ch. 25; zoning, Ch. 27.

State law reference(s)--Health and welfare, generally, 22 M.R.S.A. § 1 et seq.; authority to pass ordinances regulating the public health, welfare and safety, 30 M.R.S.A. § 2151(1).

Art. I. In General, §§ 10-1--10-17

Art. II. Rodent Control, §§ 10-18--10-199

Art. III. General Assistance Ordinance, §§ 10-200--10-801

Div. 1. Statement of Policy, § 10-200
Div. 2. Definitions, §§ 10-201--10-299
Div. 3. Administrative Rules and Regulations, §§ 10-300--10-400
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Art. VI. Discrimination Based On Sexual Orientation, §§10-1101—10-1115

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Div. 6. Enforcement, §§ 10-1110--10-1113
Div. 7. Miscellaneous, §§ 10-1114--10-1115

Art. VII. Emergency Planning and Response §§10-1121--10-1133

Art. VIII. Property Tax Assistance Ordinance, §§10-1201--10-1210

ARTICLE I. IN GENERAL

Sec. 10-1. Reserved.

Sec. 10-2. Erecting, placing, constructing pigpen or hog sty: Permit required; issuance of permit; authority to order removal of swine, hogs.

(a) No person shall erect, place or continue any pigpen or hog sty or keep any swine or hogs within the limits of the city without first obtaining a permit to do so from the health officer.

(b) The health officer shall have the authority to issue permits under conditions laid down by him to owners of hogs or swine for the keeping of same.

(c) Whenever a complaint is made to the health officer regarding any swine or hogs kept within the limits of the city, he may order the removal of the swine or hogs if, upon investigation, he deems the complaint justified.

(Code 1966, § 11-1-6)

Secs. 10-3--10-17. Reserved.

ARTICLE II. RODENT CONTROL*

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* **Cross reference(s)--**Maintenance of dwellings in rodentproof condition, § 12-198 et seq.

Sec. 10-18. Office of rodent control inspector created; appointment.

There shall be a rodent control inspector, who shall be appointed by the city manager.

(Code 1966, § 2-7-3.1)

Charter reference(s)--Authority for city manager to make appointments, § 302.1.

Sec. 10-19. Duties of rodent control inspector.

The rodent control inspector shall, by inspection of all buildings and premises within the city, enforce this article and provide for a rodent-free city.

(Code 1966, § 2-7-3.2)

Sec. 10-20. Powers of rodent control inspector.

The rodent control inspector shall have those powers necessary and proper to enforce this article, including, but not limited to, ordering the elimination of rodent harborage and unsanitary conditions attractive to rodents. He shall also be empowered to order affirmative corrective acts to be performed by the owner or agent of any building, premises or other property within the city.

(Code 1966, § 2-7-3.3)

Sec. 10-21. Property to be free of rodents.

All buildings, premises or other property within the city shall be free of rodents.

(Code 1966, § 11-6-2)

Sec. 10-22. Violations enumerated.

No person shall:

(1) Store feed or other food for poultry or other animals unless rodentproof containers, compartments, rooms or buildings, satisfactory to the rodent control inspector, shall be used therefor;

(2) Store or contain garbage or refuse consisting of waste, animal or vegetable matter, unless the same shall be kept in metal waste containers which shall have metal covers closing securely over such containers and which shall be satisfactory to the rodent control inspector;

(3) Place, leave or dump any garbage, rubbish or trash, or permit the same to be done within any building, premises or property of any kind within the city;

(4) Store or let accumulate boxes, barrels, lumber, bricks or other material, unless the same shall be placed upon open platforms not less than eighteen (18) inches above the ground, nor shall the same be stored or accumulated unless in even piles or stacks;

(5) Remove any ratproofing material or appurtenances from a building and fail to restore the same, nor shall any person create an opening in any building which allows the entrance of rodents.

(Code 1966, § 11-6-3)

Secs. 10-23--10-199. Reserved.

ARTICLE III. GENERAL ASSISTANCE ORDINANCE*

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* **Editor's note--**Ord. No. 1-90/91, adopted August 6, 1990 amended Art. III to read as herein set out in §§ 10-200--10-801. Prior to inclusion of said ordinance, Art. III, §§ 10-50--10-57, pertained to similar subject matter and derived from Ord. No. 20-83/84, adopted March 19, 1984; and Ord. No. 12-85/86, adopted Oct. 21, 1985.

DIVISION 1. STATEMENT OF POLICY

Sec. 10-200. Statement of policy.

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

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

The general assistance administrator will act promptly on all applications for assistance and requests for fair hearings. GA applicants will be provided information regarding their rights and responsibilities under the GA program. Within 24 hours of receiving an application, the administrator will provide the applicant a written decision, whether or not assistance is granted, that will state the specific reasons for the decision. The administrator will also provide the applicant written notice that the applicant may appeal to the municipal fair hearing authority if dissatisfied with the decision. When an applicant is determined to be eligible, assistance appropriate to the need will be furnished within 24 hours after the completed application is submitted except when the administrator issues non-emergency assistance conditionally on the successful completion of a workfare assignment (see Sec. 10-506 of this ordinance).

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

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

DIVISION 2. DEFINITIONS

Sec. 10-201. Common meaning of words.

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-202. Special definitions.

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

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

(c) ***Basic necessities.*** Food, clothing, shelter, fuel, hot water, electricity, non-elective essential medical services as prescribed by a physician, nonprescription drugs, basic landline telephone service, basic internet service where it is necessary for employment or educational needs, property taxes when a tax lien placed on the property threatens the loss of the applicant's place of residence, and any other commodity or service determined essential by the municipality. "Basic necessities" do not include:

- Telephone bills above basic landline service;
- Internet service above base rate and not necessary for employment or educational needs;
- Cable or satellite dish television;
- Mail orders;
- Vehicle payments not deemed essential by the administrator under Sec. 10-608(f)(7) of this ordinance;
- Credit card debt;
- Furniture;
- Loan re-payments;
- Cigarettes;
- Alcohol;
- Pet care costs;
- Vacation costs;
- Legal fees;
- Late fees;
- Key deposits; or
- Security deposits for rental property (except for those situations where no other permanent lodging is available unless a security deposit is paid, and a waiver, deferral or installment arrangement cannot be made between the landlord and tenant to satisfy the need for the immediate payment of the security deposit or payment in full) (22 M.R.S.A. § 4301(1)).

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

(e) ***Categorical assistance.*** All state and federal income maintenance programs.

(f) ***Claimant.*** A person who has requested a fair hearing.

(g) ***Deficit.*** An applicant's deficit is the appropriate overall maximum level of assistance for the household as provided in Sec. 10-608 of this ordinance less the household income as calculated pursuant to Sec. 10-607 of this ordinance,

provided such a calculation yields a positive number. If the household income is greater than the appropriate overall maximum level of assistance, the household has no deficit.

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

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

(j) ***Eligible person.*** A person who is qualified to receive general assistance from the municipality according to the standards of eligibility set forth in this ordinance (22 M.R.S.A. § 4301(3)).

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

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

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

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

(o) ***Income.*** "Income" means any form of income in cash or in kind received by the household including:

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

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

1. Real or personal income-producing property, tools of trade, governmental entitlement specifically treated as exempt assets by state or federal law;

2. Actual work-related expenses, whether itemized or by standard deduction, such as taxes, retirement fund contributions, union dues, transportation costs to and from work, special equipment costs and child care expenses; or

3. Earned income of children below the age of 18 years who are full-time students and who are not working full time.

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

4. Certain public benefit programs are specifically exempt from being counted as income for purposes of GA. These programs include:
   - Food Stamps (7 U.S.C. § 2017(b));
   - LIHEAP (42 U.S.C. § 8624);
   - Family Development Accounts (22 M.R.S. § 3762);
   - Americorp VISTA program benefits (42 U.S.C. § 5044 (f));
   - Property tax rebates issued under the Maine Residents Property Tax Program (a/k/a "Circuitbreaker" Program) (36 M.R.S.A. § 6216); and
   - Aspire Support Service Payments (10-144 CMR Chapter 323).

(p) ***Initial applicants.*** A person who has not applied for assistance in this or any other municipality are considered initial applicants.

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

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

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

(t) ***Maximum levels of assistance.*** The amount of financial assistance for a commodity or service as established in Sec. 10-608 of this ordinance or the actual cost of any such basic necessity, whichever is less.

(u) ***Misconduct.*** For purposes of the GA work requirement (see 22 M.R.S.A. § 4316-A) misconduct shall have the same meaning as misconduct defined in 26 M.R.S.A. § 1043(23). Generally, employees are guilty of misconduct when the employee violates his or her duties or obligations to the employer. Employees who engage in a pattern of irresponsible behavior to the detriment of the employer's interest may also be found guilty of misconduct.

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

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

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

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

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

(aa) ***Pooling of income.*** "Pooling of income" means the financial relationship among household members who are not legally liable for mutual support in which there occurs any commingling of funds or sharing of income or expenses. Persons sharing the same dwelling unit are presumed to be pooling their income. Applicants who are requesting that the determination of eligibility be calculated as though one or more household members are not pooling their income have the burden of rebutting the presumption of pooling of income.

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

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

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

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

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

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

Available resources include resources which are immediately available to the applicant or which can be conveniently secured by the applicant without delay, such as cash on hand or in bank accounts, assets for which there is an immediate and available market, or support from relatives which is being made available at the time of application and for which the applicant does not have to take any unreasonable steps to secure (e.g., relocation beyond the

immediate region). At the discretion of the GA administrator, a necessary minimum balance required by a financial institution in order to obtain free checking or in order to maintain the account shall not be considered an available resource.

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

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

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

(ii) ***Unmet need.*** An applicant's unmet need is the household's 30-day need as established by Sec. 10-606 of the ordinance less the household income as calculated pursuant to Sec. 10-607 of this ordinance, provided such a calculation yields a positive number. If the household income is greater than the household's 30-day need, the household does not have an unmet need.

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

(Ord. No. 1-90/91, 8-6-90, Ord. 10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 18-00/01, 3/19/01 [Fiscal Note: less than $1000]; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Secs. 10-203--10-299. Reserved.

DIVISION 3. ADMINISTRATIVE RULES AND REGULATIONS

Sec. 10-300. Administrative rules and regulations.

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

(Ord. No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-301. Confidentiality of information.

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

Release of information. Applicants, recipients and their legal representatives

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

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

Any representative of a financial institution (except national banks) or any employer of a general assistance applicant who refuses to provide necessary information to the administrator in order to verify an applicant's eligibility must state in writing the reason for the refusal. Any such person who refuses to provide information, without just cause, may be subject to a civil penalty of not less than $25 nor more than $100. Any person, including the applicant, who knowingly and willfully makes a false representation of a material fact to the administrator is committing a Class E crime (22 M.R.S.A. §§ 4314, 4315).

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-302. Maintenance of records.

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

a. provide a valid basis of accounting for municipal expenditures;

b. document and support decisions concerning an applicant or recipient; and

c. ensure the availability of all relevant information in the event of a fair hearing or judicial review of a decision by the general assistance administrator.

Case Records. The administrator will establish and maintain a separate case record, either in paper format or digital format, for each applicant or recipient. Each case record will include at least: household applications; budget sheets; information concerning the types and amounts of assistance provided; narrative statements describing the nature of the emergency situation whenever general assistance is granted in amounts greater than the applicant's mathematical eligibility (i.e., deficit or unmet need, whichever is less); written decisions; requests for fair hearings and the fair hearing authority decisions; workfare participation records; repayments to the municipality; narrative writings documenting the need for general assistance, the results of home visits, collateral information, referrals, changes in status; client authorization(s) for the release of GA information and/or reason(s) for the release of confidential information; adjustments in aid, and suspension or termination of eligibility; physician's documentation; Supplemental Security Income (SSI) interim assistance reimbursement authorization forms; and vendor forms.

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

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

(Ord.No. 1-90/91, 8-6-90, Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Secs. 10-303--10-400. Reserved.

DIVISION 4. APPLICATION PROCEDURE

Sec. 10-401. Right to apply.

Who may apply. Anyone may apply for general assistance. The head of the family, any other responsible household member, or an authorized representative must apply in person, except in special emergency situations as provided in Sec. 10-409 of this ordinance or except when the applicant is a resident of an emergency shelter and the municipality has made an agreement with that emergency shelter to presume shelter residents to be eligible for general assistance (22 M.R.S.A. § 4304(3)). In such cases, the administrator may require a representative to present a signed statement documenting that he/she is in fact authorized to apply for general assistance on behalf of the named applicant. The applicant or representative must complete a written application and any other required forms so that the administrator can determine eligibility (22 M.R.S.A. §§ 4305, 4308). With notice, all members of the household receiving general assistance may be required to physically present themselves to the administrator.

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

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

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

(Ord.No. 1-90/91, 8-6-90, Ord.No. 10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-402. Application interview.

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93, Ord. No. 18-00/01, 3/19/01 [Fiscal note: less than $1000; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-403. Contents of the application.

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

(a) applicant's name, address, date of birth, Social Security number or appropriate United States Customs and Immigration Services (USCIS) documentation, and telephone number;

(b) names, date(s) of birth, and Social Security number(s) or appropriate USCIS documentation of other household members for whom the applicant is seeking assistance;

(c) total number of individuals living with the applicant;

(d) employment and employability information;

(e) all household income, resources, assets, and property;

(f) household expenses;

(g) types of assistance being requested;

(h) penalty for false representation;

(i) applicant's permission to verify information;

(j) signature of applicant and date.

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-404. General assistance administrator's responsibilities at the time of the application.

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

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

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

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

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

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

Reimbursement/Recovery. The administrator will inform the applicant that he/she must reimburse the municipality for the amount of general assistance he/she has been granted in the event of a subsequent ability to pay. The municipality may also, as appropriate, contact the client's legal representative to inform him or her of the client's obligation to repay the municipality under the GA program. In addition to seeking repayment from a recipient, the municipality also may recover the amount of assistance granted to a recipient during the previous 12 months from any relative legally liable for the applicant's support (spouses, parents of persons under the age of 25, see Division 8, "Recovery of Expenses") (22 M.R.S.A. §§ 4318, 4319). Whenever applicable, the administrator will explain the various liens a municipality may place against a recipient's real or personal property, such as the mortgage or capital improvement lien, the Workers' Compensation lump sum payment lien, or the SSI "interim assistance agreement" lien, as these liens are described in Division 8, "Recovery of Expenses."

(Ord.No. 1-90/91, 8-6-90, Ord.No. 10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-405. Responsibilities of the applicant at the time of application.

The applicant has the responsibility at the time of each application to provide accurate, complete and current household information and verifiable documentation concerning income, resources, assets, employment, use of income, the names and addresses of any relatives legally liable for the applicant's support, and any change in this information from a previous application that would affect household eligibility (22 M.R.S.A. § 4309).

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

(a) has remained employed, if previously employed, and not quit work without just cause or been discharged from employment for misconduct;

(b) has been seeking employment, if previously unemployed or employed on a part-time basis, has accepted any suitable offer of employment, and has satisfactorily performed all workfare assignments or had just cause not to perform those assignments;

(c) has made use of all available and potential resources when directed in writing to such a program by the administrator, including, but not limited to, other government benefit programs or the assistance of liable relatives of sufficient means; and

(d) has participated in any training, retraining, educational or rehabilitative program when appropriate and when directed in writing to such a program by the administrator, in order to diminish the applicant's need for general assistance (22 M.R.S.A. §§ 4316-A, 4317).

(Ord.No. 1-90/91, 8-6-90, Ord.No. 10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-406. Action on applications.

Written decision. The general assistance administrator will give a written decision to the applicant concerning his or her eligibility within 24 hours after the applicant submits a written application. Assistance will be furnished to eligible applicants within that period except when the municipality is permitted by law (and pursuant to Sec. 10-506 of this ordinance) to issue assistance conditionally on the successful completion of a workfare assignment (22 M.R.S.A. §§ 4305, 4316-A, 4321). A written decision will be given each time a person applies, whether assistance is

granted, denied, reduced or terminated.

Content. The written decision will contain the following information:

(a) the type and amount of aid the applicant is being granted or the applicant's ineligibility;

(b) the period of eligibility if the applicant is eligible for assistance;

(c) the specific reasons for the decision;

(d) the applicant's right to a fair hearing; and

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

(Ord.No. 1-90/91, 8-6-90; Ord.No.14-93/94; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-407. Withdrawal of an application.

An application is considered withdrawn if:

(a) the applicant requests in writing that his or her application be withdrawn; or

(b) the applicant refuses to complete or sign the application or any other form needed by the general assistance administrator.

(Ord.No. 1-90/91, 8-6-90; Ord.No.14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-408. Temporary refusal to accept application.

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

(a) When the applicant's conduct is abusive, disruptive, or harassing, or when the applicant is under the influence of drugs or alcohol. In these situations, the applicant will be asked to leave, and if the applicant refuses to leave, the police may be summoned. The applicant will be informed that an application will only be accepted when his or her conduct is under control.

(b) If the administrator believes that an applicant's behavior presents a threat to the health or safety of the public or to a municipal employee, or if such behavior is violent, or if an applicant has engaged in abusive, disruptive or harassing behavior and has been required to leave on more than one occasion, then the applicant may be required to designate a third party to apply for assistance on his or her behalf and the applicant may be prohibited from entering the municipal building.

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

(Ord.No. 1-90/91, 8-6-90; Ord.No.14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-409. Emergencies.

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

§ 4308).

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

Disqualification. A person who is currently disqualified from receiving General Assistance due to a violation of Secs. 10-505, 10-506, 10-507, or 10-604 of this ordinance is ineligible to receive emergency assistance (22 M.R.S.A. § 4308(2)(A)). However, dependents of a disqualified person may be eligible for assistance. For the purposes of this section, "dependents" are defined as: 1) a dependent minor child; 2) an elderly, ill or disabled person; or 3) a person whose presence is required to provide care for any child under the age of 6 years or any ill or disabled member of the household (22 M.R.S.A. § 4309(3)). In the event one or more members of a household are disqualified and assistance is requested for the remaining dependents, the eligibility of those dependents will be calculated as though the household is comprised of the dependents only, except that all household income will be considered available to them.

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

(a) after interviewing the applicant the administrator has determined that the applicant will probably be eligible for assistance after a verification of information is completed; and

(b) the applicant submits documentation when possible, to verify his or her need.

The administrator may contact at least one other person to confirm the applicant's statements about needing emergency assistance. No further assistance will be authorized until the applicant's eligibility is confirmed (22 M.R.S.A. § 4310).

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

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

Limitation on emergency assistance. Applicants are not automatically eligible for emergency assistance. If applicants had income which could have been used to prevent all or part of an emergency, but they spent that income on items which are not basic necessities, they will not be eligible to receive general assistance to replace the misspent money (22 M.R.S.A. §§ 4308(2), 4315-A). All applicants have the responsibility to provide the administrator with verifiable documentation demonstrating that the applicant did not have sufficient income to avert the emergency situation. According to the following criteria, the administrator may limit emergency assistance to cover only the difference between the amount of money necessary for the household to avoid the emergency and the amount of income available to the household during the applicable time period.

(a) The applicable time period shall be the 30 days preceding the application for emergency assistance, except in those cases where the emergency was created by a negative account balance for a commodity or service (such as rent, mortgage or utility payments), and the negative account balance was created over a longer period of time. In such cases, the applicable time period shall be the consecutive length of time the account balance has been in the negative.

(b) The administrator shall seek from the applicant all information pertinent to the applicant's ability to provide for his or her basic necessities for the applicable time period, including evidence of all income and resources received over that period of time.

(c) The administrator shall calculate all costs for the household's basic necessities

during the applicable time period, per month, in accordance with the maximum levels established by this ordinance for the specific basic necessity or the actual monthly cost, whichever is less, including all costs associated with averting the particular emergency situation for which the applicant is seeking assistance.

(d) From the total household costs for basic necessities during the applicable time period, the administrator shall subtract the total income and lump sum payments available to the household for the applicable time period as well as the total general assistance actually received during the applicable time period.

(e) The administrator may restrict the issuance of emergency assistance to the difference yielded by the computation in subsection (d), even when such a grant will not totally alleviate the emergency situation.

(f) The administrator may waive this limitation on emergency assistance in life threatening situations or for initial applicants; that is, persons who have never before applied for general assistance.

(g) Nothing in these criteria may be construed as prohibiting a municipality from electing to alleviate an emergency situation in the most cost-effective manner available, provided such a determination of eligibility for emergency assistance is in conformance with general assistance law.

(Ord.No. 1-90/91, 8-6-90, Ord.No.10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 18-00/01, 3/19/01 [Fiscal note: Less than $1000; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-410. Residence.

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

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

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

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

Temporary Housing. Hotels/motels and similar places of temporary lodging are considered institutions if the municipality grants financial assistance for, makes arrangements for, or advises or encourages an applicant to stay in temporary lodging. [Note: Municipalities that illegally deny housing assistance and, as a result of the denial, the applicant stays in temporary lodging, are responsible for the applicant for up to 6 months and may be subject to other penalties (22 M.R.S.A. §4307(4)).]

Disputes. When the administrator believes that an applicant is a resident of another municipality but that municipality disputes its responsibility, the administrator will notify the DHHS in Augusta (287-3654 or 1-800-442-6603). If the applicant applies in this municipality first, the administrator will determine his or

her eligibility and, if eligible, will grant assistance until the DHHS has concluded which municipality is responsible for providing assistance. If another municipality was responsible, the DHHS will recover the amount due from the other municipality (22 M.R.S.A. §§ 4307(5), 4307(6)).

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Secs. 10-411--10-499. Reserved.

DIVISION 5. ELIGIBILITY FACTORS

Sec. 10-500. Eligibility factors generally.

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-501. Initial application.

Initial application. For initial applicants, except as provided immediately below, need will be the sole condition of eligibility. The exception to this general rule, as provided by law, applies to all applicants, including initial applicants, who are disqualified for a defined period for quitting employment without just cause or for being discharged from employment for misconduct (22 M.R.S.A. § 1043(23) (see Sec. 10-505 of this ordinance). An initial applicant is a person who has never before applied for general assistance in any municipality in Maine (22 M.R.S.A. § 4308(1)).

"Need" means that the applicant's income (including pro-rated income, where applicable), property, credit, assets or other resources are less than the overall maximum level of assistance contained in Sec. 10-608 of this ordinance or the applicant's 30-day need, whichever is less, and he/she does not have adequate income or other resources available to provide basic necessities.

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-502. Eligibility for categorical assistance.

Receipt of categorical assistance will not disqualify a person from receiving general assistance if the applicant is otherwise eligible. Benefits received from other assistance programs will be considered as income when determining need, with the exception of Food Stamps, which will not be counted as income or resources or otherwise taken into consideration when determining need (7 U.S.C. § 2017(b)). Also, any fuel assistance (HEAP/ECIP) received by an applicant will not be considered as income; that is, the administrator will always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid all costs associated with his or her fuel needs (42 U.S.C. § 8624(f)). The calculation of general assistance for heating energy needs when an applicant has received HEAP or ECIP shall be accomplished in accordance with subsection (c) under "Types of Income" at Sec. 10-606 of this ordinance.

Applicants or recipients must apply for other program benefits within 7 days after being advised in writing to do so by the general assistance administrator.

Persons who, without just cause, make no good faith effort to obtain a potential resource will be disqualified from receiving assistance until they make a good faith effort to obtain the benefit (22 M.R.S.A. § 4317).

(Ord.No. 1-90/91, 8-6-90; Ord.No.10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-503. Personal property.

(a) ***Liquid assets.*** No person owning assets easily convertible into cash, including but not limited to, bank deposits, stocks, bonds, certificates of deposit, retirement accounts, life insurance policies and other marketable security, will be eligible for general assistance unless and until he or she uses these assets to meet his or her basic needs, and thereby exhausts them.

At the discretion of the GA administrator, liquid assets do not mean a reasonable minimum balance necessary for obtaining free checking. Although one checking account per household may be allowed, any monies over the minimum required to obtain free checking are to be considered available liquid assets.

(b) ***Tangible assets.*** No person owning or possessing personal property, such as but not limited to: a motor vehicle, or a boat, trailer, recreational vehicle or other assets that are convertible into cash and are non-essential to the maintenance of the applicant's household, will be eligible for general assistance. Exceptions may be made when a person is making an initial application or is an unforeseeable repeat applicant as defined in Sec. 10-202 or when reasonable efforts to convert assets to cash at fair market value are unsuccessful.

Tools of a trade, livestock, farm equipment and other equipment used for the production of income are exempt from the above category and are not considered available assets.

(c) ***Automobile ownership.*** Ownership of one automobile per household will not make a person ineligible for assistance if such vehicle is essential for transportation to employment or for seeking employment, obtaining medical care, rehabilitation or training facilities, or for any other reason the GA administrator determine reasonable for the maintenance of the applicant's household. Recipients of general assistance who own an automobile with a market value greater than $8,000 may be required, with written, 7-day notice, to make a good faith effort to trade that automobile for an automobile with a market value of less than $8,000. Any income received by the applicant by virtue of such a trade down must be used for his or her basic necessities. Failure to liquidate or trade down the excess value of any automobile asset can result in disqualification (22 M.R.S.A. § 4317). The municipality will neither pay nor consider as necessary any car payment or vehicle maintenance cost, including insurance, for which the applicant is responsible. However, provided the vehicle value is $8000 or less <u>and</u> the applicant is utilizing the vehicle for any of the above mentioned "essential" reasons, the municipality in its discretion may choose to not consider reasonable car payments, reasonable car insurance and reasonable associated costs of maintenance as "misspent" income. General assistance for travel-related needs shall be computed in accordance with Sec. 10-608(f)(7) and (8) of this ordinance, "Work/Travel Related Expenses."

(d) ***Insurance.*** Insurance that is available to an applicant on a non-contributory basis or that is required as a condition of employment will not be a factor in determining eligibility for general assistance. Life insurance with a cash surrender value may, at the discretion of the GA administrator, be considered as a tangible asset.

(e) ***Transfer of property.*** Applicants who transfer assets for less than fair market value to someone else solely for the purpose of establishing eligibility for general assistance will not be granted general assistance to replace the uncompensated value of the transferred asset. Assistance will be denied within a 120-day limit up to the uncompensated value of the asset which was transferred unless the transfer of asset is fraudulently misrepresented, in which case a 120-day disqualification will issue. There will be a presumption that the applicant transferred his or her assets in order to be eligible for

general assistance whenever property is sold for less than the fair market value or when the transfer occurred within 30 days prior to applying for general assistance unless the applicant can demonstrate the existence of a good faith transaction.

(Ord.No. 1-90/91, 8-6-90; Ord.No. 10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93, Ord. No. 18-00/01, 3/19/01 [Fiscal Note: Less than $1000]; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-504. Ownership of real estate.

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

1. The applicant has received General Assistance for the last 120 consecutive days; and

2. The applicant has the legal right to sell the land (e.g., any mortgagee will release any mortgage, any co-owners agree to the sale, zoning or other land use laws do not render the sale illegal or impracticable); and

3. The applicant has the financial capability to put the land into a marketable condition (e.g., the applicant can pay for any necessary surveys); and

4. The land is not utilized for the maintenance and/or support of the household; and

5. A knowledgeable source (e.g., a realtor) indicates that the land in question can be sold at fair market value, for an amount which will aid the applicant's financial rehabilitation; and

6. No other circumstances exist which cause any sale to be unduly burdensome or inequitable.

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

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

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

1. Dispose of the property at fair market value in order to convert the property into cash which can be applied toward meeting present need; or

2. Obtain a loan against such property which may be used to meet present need. Applicants who transfer their excess property to someone solely to appear eligible for general assistance will be ineligible.

If an applicant is granted assistance in the form of a mortgage payment or capital improvement payment, the municipality may claim a lien against the property. The lien shall not be enforceable until the time of sale of the property or upon the death of the recipient (see also Sec. 10-608 of this ordinance) (22 M.R.S.A. § 4320).

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-505. Work requirement.

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

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

A "suitable job" means any job which the applicant is mentally and physically able to perform. "Available for work" means that applicants must make themselves available for work during normal business hours prevailing in the area, and show that no circumstance exists which would prevent them from complying with the work requirement.

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

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

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

(a) refuse to register for employment with the Maine Job Service;

(b) refuse to search diligently for employment when the search is reasonable and appropriate; recipients who unreasonably seek work at the same places repeatedly will not be considered to be performing a diligent worksearch and will be disqualified.

(c) refuse to accept a suitable job offer;

(d) refuse to participate in an assigned training, education or rehabilitation program that would assist the applicant in securing employment;

(e) fail to be available for work; or

(f) refuse to participate or participate in a substandard manner in the municipal work program (see Sec. 10-506).

Ineligibility due to job quit or discharge for misconduct. No applicant, whether an initial or repeat applicant, who has quit his or her full-time or part-time job without just cause or who has been discharged from employment for misconduct

will be eligible to receive general assistance of any kind for a 120-day period from the date of separation from employment (22 M.R.S.A. §§ 4301(8), 4316-A(1-A)).

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

(a) the applicant has a physical or mental illness or disability which prevents him/her from working;

(b) the work assignment pays below minimum wages;

(c) the applicant was subject to sexual harassment;

(d) the applicant is physically or mentally unable to perform required job tasks, or to meet piece work standards;

(e) the applicant has no means of transportation to or from work or a training or rehabilitation program;

(f) the applicant is unable to arrange for necessary child care or care of ill or disabled family members; or

(g) any reason found to be good cause by the Maine Department of Labor, or any other verifiable reason which the administrator considers reasonable and appropriate will be accepted as just cause (22 M.R.S.A. § 4316-A(5)).

Applicant's burden of establishing just cause. If the administrator finds that the applicant has violated a work-related rule without just cause, it shall be the responsibility of the applicant to establish the presence of just cause (22 M.R.S.A. § 4316-A(5)).

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

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

The special provisions regarding the opportunity to regain eligibility after a disqualification for workfare violations are detailed in Sec. 10-506 of this ordinance, under "Eligibility Regained."

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

(a) a dependent minor child;

(b) an elderly, ill, or disabled person; and

(c) a person whose presence is required in order to provide care for any child under 6 years of age or for any ill or disabled member of the household (22 M.R.S.A. § 4309(3)). In the event one (or more) member(s) of a household is disqualified and assistance is requested for those remaining members of the household who are dependents, the eligibility of those dependents will be calculated as though the household is composed of the dependents only, except that all household income will be considered as available to them.

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

The requirements of this section will not be imposed so as to interfere with an

applicant's existing employment, ability to pursue a bona fide job offer, ability to attend an interview for possible employment, classroom participation in a primary or secondary educational program intended to lead to a high school diploma, classroom or on site participation in a training program which is either approved by the Department of Labor or determined by the Department of Labor to be expected to assist the applicant in securing employment, or classroom participation in a degree-granting program operated under the control of the Department of Labor.

(Ord.No. 1-90/91, 8-6-90; Ord.No. 10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-506. Municipal Work Program.

Each applicant and any member of the household who is capable of working may be required to perform work for the municipality, including work for a non-profit organization, as a condition of receiving assistance (22 M.R.S.A. § 4316-A.2). As part of the municipal work program, the municipality can require recipients to participate in training, education, or rehabilitative programs that will assist the recipient in securing employment. The work requirement provisions found in Sec. 10-505 regarding just cause, dependents, and exemptions also apply to the municipal workfare program.

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

Subtracting Value of Workfare Performed from Client's GA Debt. Pursuant to 22 M.R.S.A. § 4318 individuals owing the municipality funds for general assistance provided to them are obligated to repay the municipality when and if they become able (see Division 8, "Recovery of Expenses"). However, persons performing workfare shall have the value of the workfare performed deducted from any and all GA debt including GA liens (e.g., Workers' Compensation Settlement, SSI Retroactive Payment, Capital Improvement, Home Mortgage) that might exist against their settlements, payments or other such property.

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

1. No person shall, as a condition of eligibility, be required to do any amount of work that exceeds the value of the net general assistance that the person receives under municipal general assistance standards. Any person performing work under this subsection shall be provided with net general assistance the value of which is calculated at a rate of at least the prevailing minimum wage under state or federal law at the time the workfare was performed.

2. No workfare participant shall be required to work for a nonprofit organization if that work would violate the participant's basic religious beliefs;

3. In no case shall eligible persons performing work under this subsection replace regular municipal employees.

4. In no case will work performed under this subsection interfere with an eligible person's:

   a. existing employment;

   b. ability to follow up on a bona fide job offer;

   c. attendance at an interview for possible employment;

   d. classroom participation in a primary or secondary educational program intended to lead to a high school diploma; or

   e. classroom or on site participation in a training program which is approved by the Department of Labor or determined by the Department of

Labor to be reasonably expected to assist the person in securing employment, or classroom participation in a degree-granting program administered by the DHHS or the Department of Labor.

5. In no case may an eligible person be required to work more than 40 hours per week. An eligible person who has full or part-time employment shall be exempt from the work requirement to the extent that the work requirement in combination with his or her regular employment would result in the person working more than 40 hours per week.

6. In no case will an eligible person be required to perform work beyond his or her capabilities. However, when an illness or disability is claimed, an eligible person may be required as a condition of receiving assistance to present a doctor's statement detailing the extent of the disability or illness (22 M.R.S.A. § 4309).

   If the administrator requires a doctor's statement to verify an applicant's illness or disability and the applicant is not currently under the care of a provider, the municipality may pay for the doctor's evaluation if the applicant has no means to pay for the exam. However, in such a case, the administrator will choose the doctor. If there is a no-cost or low-cost health care option, the municipality may elect to refer the client to such a resource. The administrator will not require verification of medical conditions which are apparent or which are of such short duration that a reasonable person would not ordinarily seek medical attention (22 M.R.S.A. § 4316(5)).

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

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

1. In no circumstance will emergency general assistance for which an applicant is eligible be withheld pending the satisfactory performance of workfare.

2. All workfare participants under this policy will be provided a written decision, as otherwise required by law, within 24 hours of submitting an application for general assistance and prior to performing any workfare for the municipality associated with that request for assistance. That written decision must include:

   a. a specific description of the amount of general assistance being conditionally granted to the household, and for which basic needs;

   b. the period of eligibility for which the general assistance grant is being issued (in days or weeks, but not to exceed 30 days);

   c. the rate, at a dollar-per-hour basis (but not less than the prevailing minimum wage), upon which the duration of the workfare assignment is calculated;

   d. the actual duration of the workfare assignment that must be performed, in hours, before the general assistance grant will be actually issued;

   e. the specifics of the workfare assignment(s), including the general nature of the type of work being assigned, location(s) of work-site, date(s) and time(s) of assigned workfare, workfare supervisors' names and contact telephone numbers, and

   f. any other pertinent information related to the workfare assignment(s) the recipient will be expected to perform.

3. As previously provided in this section, all workfare participants under this

policy must sign a consent form that informs the participant of his or her workfare-related rights and responsibilities, including the consequences of failing to perform all or part of the workfare assigned without just cause.

4. If a portion of the workfare-first assignment is satisfactorily performed but there has been a failure to perform the remainder of the assignment, without just cause, the administrator shall issue a grant of general assistance in the amount of the number of workfare hours satisfactorily performed times the hourly rate used to calculate the duration of the workfare assignment. In addition to any disqualification penalty that may apply, the remaining value of the conditionally issued general assistance grant shall be terminated, and notice of the partial termination, and the reasons therefore, will be issued to the workfare participant in accordance with Sec. 10-610 of this ordinance.

5. Any amount of the workfare assignment that is not performed because the workfare participant was temporarily unable to perform the assignment for just cause reasons shall be reassigned or excused at the discretion of the GA administrator.

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

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

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

Recipients who fail to complete the first municipal work assignment they have been given will be disqualified from receiving assistance during the next 120 days, although dependents in the household may be eligible (see Sec. 10-505, "Dependents").

If during the 120-day disqualification period the recipient requests an opportunity to perform the work assignment which he or she, without just cause, failed to perform, the disqualified recipient will be given one opportunity to regain eligibility. The administrator will give the recipient a work assignment as soon as possible. If under such a set of circumstances the recipient has an emergency need and the administrator is unable to schedule a work assignment in time to alleviate the emergency, the administrator will provide sufficient assistance to the recipient to avert the emergency. However, the provision of such emergency assistance will not bar the administrator from subsequently enforcing the previously-issued 120-day disqualification if the recipient fails to regain eligibility by satisfactorily performing the work assignment. The amount of emergency assistance granted will be considered in the computation of the total number of hours the recipient must work.

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

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

Any recipient who intentionally causes damage to property, harassed or harms other employees or who otherwise conducts themselves in a disruptive manner and is discharged by the work supervisor will not be entitled to regain eligibility by

returning to the work program. Eligibility may be regained by otherwise becoming employed and meeting the definition of need.

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-507. Use of resources.

Each applicant has the responsibility to make a good faith effort to utilize every available or potential resource that may reduce his or her need for general assistance (see Sec. 10-202 for definition of "Resources"). People who refuse or fail to make a good faith effort to secure a potential resource after receiving written notice to do so are disqualified from receiving assistance until they make an effort to secure the resource. Applicants are required to prove that they have made a good faith effort to secure the resource (22 M.R.S.A. § 4317).

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

1. the minor is residing in a foster home, maternity home, or other adult-supervised supportive living arrangement; or

2. the minor has no living parent or the whereabouts of the both parents are unknown; or

3. no parent will permit the minor to live in the parent's home; or

4. the minor has lived apart from both parents for at least one year before the birth of any dependent child; or

5. the DHHS determines that the physical or emotional health or safety of the minor or the minor's dependent child or children would be jeopardized if the minor and his or her child or children lived with a parent; or

6. the DHHS determines, in accordance with its regulation, that there is good cause to waive this limitation on eligibility. (22 M.R.S.A. § 4309(4)).

Any person under the age of 25 who is applying independently from his or her parents for general assistance will be informed that until he or she reaches the age of 25, the applicant's parents are still legally liable for his or her support and the municipality has the right to seek recovery from the parents of the cost of all assistance granted to such a recipient to the extent his or her parents are financially capable of repaying the municipality. (22 M.R.S.A. § 4319). With regard to any such application, the municipality may seek verification of the applicant's need for general assistance by contacting his or her parents. If the applicant's parents declare a willingness to provide the applicant with his or her basic needs directly, and there is no convincing evidence that the applicant would be jeopardized by relying on his or her parents for basic needs, the administrator may find the applicant to be in no need for general assistance for the reason that his or her needs can be provided by a legally liable relative.

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

Written notice; disqualification. The administrator will give each applicant written notice whenever the applicant is required to utilize any specific potential resource(s). Any applicant who refuses to utilize potential resources, without just cause, after receiving written 7-day notice will be ineligible for further

assistance until he/she has made a good faith effort to utilize or obtain the resources. General assistance will not be withheld from the applicant pending receipt of a resource if the applicant has made, or is in the process of making, a good faith effort to obtain the resource.

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

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-508. Period of disqualification.

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

Work requirement. Applicants/recipients who do not comply with a work requirement are disqualified from receiving assistance for a period of 120 days (unless they regain their eligibility) (see Secs. 10-505 and 10-506). If an applicant/recipient is provided assistance and does not comply with the work requirement, the applicant/recipient shall be disqualified for 120 days following the end of the period covered by the grant of assistance. The administrator shall give recipients written notice that they are disqualified as soon as the administrator has sufficient knowledge and information to render a decision of ineligibility.

Fraud. People who commit fraud are disqualified from receiving assistance for a period of 120 days (see Sec. 10-604, "Fraud"). The administrator shall give recipients written notice that they are ineligible as soon as the administrator has sufficient knowledge and information to render a decision. If the disqualification for fraud is issued before the expiration of a grant of assistance, the period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance. If fraud is discovered after the period covered by the grant of assistance has expired, the period of ineligibility will commence on the day of the written notice of ineligibility.

(Ord.No. 1-90/91, 8-6-90; Ord.No. 10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Secs. 10-509--10-600. Reserved.

DIVISION 6. DETERMINATION OF ELIGIBILITY

Sec. 10-601. Recognition of dignity and rights.

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than

$1000])

Sec. 10-602. Determination; redetermination.

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

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-603. Verification.

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

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

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

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

Initial Applicants. A person who has not applied for assistance in this or any other municipality are considered initial applicants and must have their eligibility determined solely on the basis of need. Initial applicants are not subject to eligibility conditions placed on repeat applicants *(see below)*. However, such applicants are still responsible for providing the GA administrator with reasonably obtainable documentation adequate to verify that there is a need for assistance. In addition, initial applicants must also comply with both lump sum and relevant work rules (i.e., job quit).

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

The administrator will require documentation of a repeat applicant's income, use of income, assets and resources plus actual bills and receipts for rent,

utilities, fuel, telephone, internet service, medical services and other basic necessities. In addition, repeat applicants instructed to seek employment shall verify their work search results, e.g., provide a list of the employers contacted, the date and time of the application contact, and the name of the employer representative contacted, as required by the GA administrator.

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

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

Overseer's responsibilities. In order to determine an applicant's eligibility for general assistance, the overseer first must seek information and documentation from the applicant. Once the applicant has presented the necessary information, the overseer is responsible for determining eligibility. The overseer will seek verification necessary to determine eligibility. In order to determine eligibility, the overseer may contact sources other than the applicant for verification only with the specific knowledge and consent of the applicant, except that the overseer may examine public records without the applicant's knowledge and consent.

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

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

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

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

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-604. Fraud.

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

(a) making a false statement to the general assistance administrator, either orally or in writing, in order to obtain assistance to which the applicant or the applicant's household is not entitled;

(b) concealing information from the general assistance administrator in order to obtain assistance to which the applicant or applicant's household is not entitled; or

(c) using general assistance benefits for a purpose other than that for which they were intended.

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

Period of ineligibility. When the general assistance administrator finds that a person has knowingly and willfully misrepresented material facts for the purpose of making himself or herself eligible for general assistance, the administrator shall notify that applicant in writing that he or she has been disqualified from receiving assistance for 120 days. For the purpose of this section, a material misrepresentation is a false statement about an eligibility factor in the absence of which some or all of the assistance would not be or would not have been granted. The notification of ineligibility issued by the administrator shall inform the applicant of his or her right to appeal the administrator's decision to the fair hearing authority (FHA) within 5 working days of receipt. The period of ineligibility shall commence on the day following the end of the period covered by the grant of assistance fraudulently received or upon the date of notification of ineligibility, whichever is later.

Right to a fair hearing. Any applicant who is denied assistance for making a false representation will be afforded the opportunity to appeal the decision to the fair hearing authority in accordance with Division 7 of this ordinance. No recipient shall have his or her assistance reduced or revoked during the period of eligibility before being notified and given the opportunity to appeal the decision. Any person who is dissatisfied with the decision of the fair hearing authority may appeal that decision to the Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure (22 M.R.S.A. § 4309(3)).

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

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

(Ord.No. 1-90/91, 8-6-90; Ord.No.10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-605. Period of eligibility.

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

When an applicant submits an incomplete or unsigned application, due to the 24-hour decision requirement placed on the GA administrator, the GA administrator shall render a notice of "ineligibility" and advise the applicant that he or she has

a right to reapply as soon as he or she has the necessary information and/or as soon as is practicable for the applicant.

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-606. Determination of need.

The period of time used to calculate need will be the next 30-day period from the date of application (22 M.R.S.A. § 4301(7)). The administrator will calculate applicants' expenses according to the actual expense of the basic necessity or the maximum levels for the specific necessities allowed in Sec. 10-608 of this ordinance, whichever is less. The sum of these expenses, as calculated for a prospective 30-day period, is the applicant's 30-day need. Applicants will not be considered eligible if their income and other resources exceed this calculation except in an emergency (22 M.R.S.A. § 4308(2)) (see Sec. 10-409 of this ordinance).

Applicants will also not be considered in need of general assistance if their income, property, credit, assets or other resources available to provide basic necessities for their household are greater than the applicable overall maximum level of assistance set forth in the beginning of Sec. 10-608 of this ordinance (22 M.R.S.A. §§ 4301(10), 4305(3-B)). The difference between the applicant's income and the overall maximum levels of assistance established by this ordinance is the applicant's deficit.

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

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

Use-of-Income Requirements. The administrator may require that anyone applying for general assistance provide documentation of his or her use of income. This documentation can take the form of cancelled checks and/or receipts which demonstrate that the applicant has exhausted all household income received over the last 30-day period. Except as is deemed appropriate by the GA administrator for "unforeseen" repeat applicants (see Sec. 10-603 of this ordinance), repeat applicants may be required to verify that expenditure of income was for basic necessities. Income expended that cannot be verified will generally be considered available and in such case will be added to the 30-day prospective income.

Allowable expenditures include reasonable shelter costs (rent/mortgage); the cost of heating fuel, electricity, and food up to the ordinance maximums; landline telephone service at the base rate; internet service at the base rate if necessary for employment or educational needs; the cost of non-elective medical services as recommended by a physician which are not otherwise covered by medical entitlement,

Hospital Free Care or insurance; the reasonable cost of essential clothing and non-prescription drugs, and the costs of any other commodity or service determined essential by the administrator. Landline telephone service at the base rate and internet service at the base rate if necessary for employment or educational needs will be budgeted by the administrator if determined to be qualified expenses, but neither expense will be paid through the GA program.

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

- Internet services above base rate and not necessary for employment or educational needs;
- Cable or satellite television;
- Cellular phones;
- Cigarettes/alcohol;
- Gifts purchased;
- Pet care costs;
- Costs of trips or vacations;
- Paid court fines;
- Repayments of unsecured loans;
- Legal fees;
- Late fees; and
- Credit card debt.

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

(a) The administrator may require the applicant to use some or all of his or her income, at the time it becomes available, toward specific basic necessities. The administrator may prioritize such required expenditures so that most or all of the applicant's income is applied to housing (i.e., rent/mortgage), energy (i.e., heating fuel, electricity), or other specified basic necessities;

(b) The administrator will notify applicants in writing of the specific use-of-income requirements placed on them;

(c) If upon subsequent application it cannot be determined how the applicant's income was spent, or it is determined that some or all of the applicant's income was not spent as directed and was also not spent on basic necessities, the applicant will not be eligible to receive either regular or emergency general assistance to replace that income; and

(d) If the applicant does not spend his or her income as directed, but can show with verifiable documentation that all income was spent on basic necessities up to allowed amounts, the applicant will remain eligible to the extent of the applicant's eligibility and need.

Calculation of Income and Expenses. When determining eligibility, the administrator will subtract the applicant's net income from the overall maximum level of assistance found at the beginning of Sec. 10-608 of this ordinance. If income is greater than the overall maximum level of assistance, the applicant will not be eligible except in an emergency (see Sec. 10-409 of this ordinance). If income is less than the overall maximum level of assistance, the applicant has a deficit.

The municipality will provide assistance in an amount up to the deficit to the extent the applicant also has an unmet need and is in need of basic necessities. The municipality will not grant assistance in excess of the maximum amounts allowed in Sec. 10-608 of this ordinance for specific basic necessities except in an emergency or when the administrator elects to consolidate the applicant's deficit, as provided immediately below.

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

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

(Ord.No. 1-90/91, 8-6-90; Ord.No.10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 18-00/01, 3/19/01 [Fiscal Note: less than $1000]; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-607. Income.

Income standards. Applicants whose income exceeds the overall maximum level of assistance provided in Sec. 10-608 of this ordinance shall not be eligible for general assistance except in an emergency. The administrator will conduct an individual factual inquiry into the applicant's income and expenses each time an applicant applies.

Calculation of income. To determine whether applicants are in need, the administrator will calculate the income they will receive during the next 30-day period commencing on the date of application, and identify any assets or resources that would alleviate their need. For all applicants other than initial applicants, the administrator will also consider as available income any income that was not spent during the previous 30-day period on basic necessities, as well as any income that was spent on basic necessities in unreasonable excess of the ordinance maximums for specific basic necessities. If a household's income exceeds the amount of the household's need for basic necessities, up to the maximum levels contained in Sec. 10-608 of this ordinance, applicants will not be considered in need. Exceptions will be made in emergency situations which may necessitate that the maximum levels be exceeded (22 M.R.S.A. § 4308; see Sec. 10-409 of this ordinance). To calculate weekly income and expenses, the administrator will use actual income received or actual anticipated income.

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

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

NOTE: Actual work-related expenses such as union dues, transportation to and from work, special equipment or work clothes, and child care costs will not be considered available income and will be deducted (22 M.R.S.A. § 4301(7)).

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

The administrator's obligation is to always compute the heating needs of an applicant who has received HEAP or ECIP as if that applicant paid for his or her total fuel costs. Accordingly, in such cases, the administrator will

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

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

- Family Development Accounts (22 M.R.S.A. § 3762);
- Americorp VISTA program benefits (42 U.S.C. § 5044 (f)); and
- Property tax rebates issued under the Maine Residents Property Tax Program (so-called "Circuitbreaker" program) (36 M.R.S.A. § 6216).

(c) *Court-ordered support payments.* Alimony and child support payments will be considered income only if actually received by the applicant. The general assistance administrator will refer cases where support payments are not actually received to the State Department of Health and Human Services' Child Support Enforcement Unit. In order to be eligible for future GA, applicants being referred to DHHS for such enforcement services shall be required to follow-through with such services. Because child support payments are considered a resource, applicants must make a good faith effort to secure such payments.

(d) *Income from other sources.* Payments from pensions and trust funds will be considered income. Payments from boarders or lodgers will be considered income as will cash or in-kind contributions provided to the household from any other source, including relatives (22 M.R.S.A. § 4301(7)).

(e) *Earnings of a son or daughter.* Earned income received by sons and daughters below the age of 18 who are full-time students and who are not working full-time will not be considered income. The unearned income of a minor in the household will be considered available to the household.

(f) *Income from household members.* Income from household members will be considered available to the applicant, whether or not the household member is legally obligated for the support of the applicant, if the household members pool or share their income and expenses as a family or intermingle their funds so as to provide support to one another.

(g) *The pooling or non-pooling of income.* When two or more individuals share the same dwelling unit but not all members of the household are applying for general assistance, the administrator shall make a finding under a rebuttable presumption that the entire household is pooling income (22 M.R.S.A. § 4301(12-A)). One or more applicants for assistance can successfully rebut the presumption that all household income is being pooled by providing the administrator with verifiable documentation affirmatively demonstrating a pattern of non-pooling for the duration of the shared living arrangement. Such documentation would include evidence of the entire household expenses as well as bank statements, cancelled checks, receipts, landlord statements or other vendor accounts clearly supporting a claim that the applicant has been and is presently solely and entirely responsible for his or her pro-rate share of household costs. If the applicant is unable to successfully rebut the municipality's presumption that all household income is being pooled, eligibility of the entire household will be determined based on total household income. If the applicant successfully rebuts the municipality's presumption that all household income is being pooled, the applicant's eligibility will be determined on the basis of his or her income and his or her pro-rata share of actual household expenses.

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

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

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

(1) identify the date the lump sum payment was received;

(2) subtract from the lump sum payment all required payments;

(3) subtract from the lump any amount the applicant can demonstrate was spent on basic necessities, including all basic necessities as defined by the general assistance program such as: reasonable payment of funeral or burial expenses for a family member; any reasonable travel costs related to the illness or death of a family member; repair or replacement of essentials lost due to fire, flood or other natural disaster; repair or purchase of a motor vehicle essential for employment, education, training or other day-to-day living necessities. Repayments of loans or credit, the proceeds of which can be verified as having been spent on basic necessities; and payment of bills earmarked for the purpose for which the lump sum is paid must also be subtracted. (22 M.R.S.A. § 4301(7), (8-A));

(4) add to the remainder all income received by the household between the date of receipt of the lump sum payment and the date of application for general assistance; and

(5) divide the sum created in subsection (4) by the greater of the verified actual monthly amounts for all of the household's basic necessities or 150% of the applicable federal poverty guidelines (22 M.R.S.A. § 4305(3-B)).

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

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

(Ord.No. 1-90/91, 8-6-90; Ord.No.10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-608. Basic necessities; Maximum levels of assistance

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

Applicants will be eligible for general assistance up to the calculated deficit to the extent the applicant is unable to otherwise provide the basic necessities essential to maintain themselves or their families. Applicants with no deficit shall be found ineligible for general assistance unless they are in an emergency, in which case eligibility for emergency general assistance will be determined according to Sec. 10-409 of this ordinance.

Maximum levels of assistance for specific basic necessities. The municipality will grant assistance to eligible applicants for basic necessities according to the

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

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

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

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

For this purpose, the municipality hereby incorporates by reference the U.S.D.A. Thrifty Food Plan, as distributed by the Maine Department of Health and Human Services on or about October of each year. See ***Appendix B*** of this ordinance for the current year's food maximums.

In determining need for food the administrator will not consider the value of the food stamps an applicant receives as income (22 M.R.S.A. § 4301(7)(A); 7 U.S.C. § 2017(b)). The municipality will authorize vouchers to be used solely for approved food products.

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

(b) **Housing.** The administrator will provide assistance with rent or mortgage payments that are reasonable within the allowed maximum levels and in accordance with the housing assistance limits and exceptions provided in Title 22, section 4308, subsections 1-A and 1-B.. See ***Appendix C*** of this ordinance for the current year's housing maximums. It is the applicant's responsibility to find suitable housing, although the administrator may help the applicant find housing when appropriate. The administrator will inform the applicant of the allowed housing maximums to assist the applicant in his or her search for housing. The allowed maximum for any applicant will be the categorical housing maximum representing the minimum dwelling unit space necessary to adequately shelter the applicant household. Applicants requesting assistance for housing that contains more bedrooms than are necessary for the number of household members will be provided assistance according to the maximum level for the number of rooms actually needed.

Rental Payments to Relatives. The municipality may elect to not issue any rental payment to an applicant's relatives unless the rental relationship has existed for at least three months <u>and</u> the applicant's relative(s) rely on the rental payment for their basic needs. For the purpose of this section, a "relative" is defined as the applicant's parents, grandparents, children, grandchildren, siblings, parent's siblings, or any of those relative's children (22 M.R.S.A. § 4319(2).

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

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

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

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

Mortgage Payments. In the case of a request for assistance with a mortgage payment, the general assistance administrator will make an individual factual determination of whether the applicant has an immediate need for such aid. In making this determination, the administrator will consider the extent and liquidity of the applicant's proprietary interest in the housing. Factors to consider in making this determination include:

(1) the marketability of the shelter's equity;

(2) the amount of equity;

(3) the availability of the equity interest in the shelter to provide the applicant an opportunity to secure a short-term loan in order to meet immediate needs;

(4) the extent to which liquidation may aid the applicant's financial rehabilitation;

(5) a comparison between the amount of mortgage obligations and the anticipated rental charges the applicant would be responsible for if he/she were to be dislocated to rental housing;

(6) the imminence of the applicant's dislocation from owned housing because of his or her inability to meet the mortgage payments;

(7) the likelihood that the provision of housing assistance will prevent such dislocation; and

(8) the applicant's age, health, and social situation.

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

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

(1) the monthly mortgage obligation is in accordance with the maximum levels of assistance available for housing appropriate to the applicant's household size;

(2) there is no capacity in the accumulated equity in the property, when considered in the context of the applicant's borrowing capacity with the mortgagee or the general lending community, to suspend the mortgage obligation temporarily or reamortize the mortgage in such a way as to suspend or reduce the mortgage obligation; and

(3) the failure to provide a mortgage payment in a timely manner could jeopardize the applicant's continued right of possession of the property.

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

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

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

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

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

Property Taxes. In the event an applicant requests assistance with his or her property taxes, the administrator will inform the applicant that there are two procedures on the local level to request that relief: the poverty abatement process (36 M.S.R.A. § 841(2)) and General Assistance. If the applicant chooses to seek property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using general assistance to meet this need only if:

a) the property tax in question is for the applicant's place of residence;

b) there is a tax lien on the property which is due to mature within 60 days of the date of application;

c) as a matter of municipal policy or practice, or on the basis of information obtained from the applicant's mortgagee, if any, it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and

d) the applicant, with sufficient notice, applies for property tax relief through the Maine Resident Property Tax Program, when available.

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

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

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

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not obligated to pay back bills or utility security deposits. Exceptions may be made in emergency situations pursuant to Sec. 10-409 of this ordinance.

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

Applicants have the burden of providing evidence of their income and use of income for the applicable time period (22 M.R.S.A. § 4308(2)) (see Sec. 10-409 and Sec. 10-603 of this ordinance). The administrator will notify applicants in writing that they must give the administrator prompt notice if their utility service is to be terminated or if their fuel supply is low. It is the applicant's responsibility to attempt to make arrangements with the utility company to maintain their service and to notify the administrator if assistance is needed with a utility bill prior to service being terminated.

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

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

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

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

Assistance will be granted to eligible applicants on the basis of their most recent bill. The municipality is not responsible for back bills except in an emergency as provided in Sec. 10-409. Applicants are responsible for monitoring their fuel supply and requesting assistance prior to depleting their fuel supply. When applicants who have been informed of this responsibility run out of fuel nonetheless, and can show no just cause for failing to give the administrator timely notice of their need for fuel, the administrator shall find that the emergency was not beyond the applicants' control, and process the emergency request accordingly, pursuant to Sec. 10-409 of this ordinance.

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

(e) **Personal Care and Household Supplies.** Expenses for ordinary personal and household supplies will be budgeted and allowed according to the applicant's actual need for these items, up to the maximums below. Personal and household supplies include: hand soap, toothpaste, shampoo, shaving cream, deodorant, dish detergent, laundry supplies and costs, household cleaning supplies, razors, paper products such as toilet paper, tissues, paper towels, garbage/trash bags light bulbs and supplies for children under 5 years of age. See ***Appendix F*** of this ordinance for the current year's personal care and household supplies maximums.

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

(1) **Clothing.** The municipality may assist a household with the purchase of adequate clothing. Before assistance will be granted for clothing, the general assistance administrator must be satisfied that the applicant has utilized all available resources to secure the necessary clothing. In some circumstances, clothing will be a postponable item. Exceptions to this would be, for example, if fire, flood or unusually cold weather makes extra clothing an immediate necessity, special clothing is necessary for the applicant's employment, or a household member is without adequate clothing.

(2) **Medical.** The municipality will pay for essential medical expenses, other than hospital bills *(see below)*, provided that the municipality is notified and approves the expenses and services prior to their being made or delivered. Medical expenses include prescriptions, devices, treatments, or services that are determined to be 'medically necessary' by a licensed physician. The municipality will grant assistance for medical services only when assistance cannot be obtained from any other source and the applicant would not be able to receive necessary medical care without the municipality's assistance. The applicant is required to utilize any resource, including any federal or state program, that will diminish his or her need to seek general assistance for medical expenses. The municipality will grant assistance for non-emergency medical services only if a physician verifies that the services are essential. Provided there is no cost to the applicant, the administrator may require a second medical opinion from a physician designated by the municipality to verify the necessity of the services.

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

Ordinary medical supplies/non-prescription drugs will be budgeted at the actual amount when the applicant can demonstrate a need for such items. Allowable supplies include bandages, aspirin, cough syrup, and other generic brand, non-prescription medicines. In addition, the basic monthly rate for landline telephone service will be budgeted by the administrator if determined to be qualified expenses, but the expense will not be paid through the GA program unless deemed essential to the health and safety of the household by the administrator. The applicant must provide a written statement from a physician certifying that the telephone is essential.

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

Any person who cannot pay his or her hospital bill must apply to the hospital for consideration under the Hospital's Free Care Program as provided in Title 22 M.R.S.A. § 396-F(1). Anyone who is not eligible for the hospital's free care program may apply for general assistance. Applicants must apply for assistance within 30 days of being discharged from

the hospital and provide a notice from the hospital certifying that they re not eligible for the hospital's free care program.

Before the administrator will consider whether to allow a hospital bill as a necessary expense, the applicant must enter into a reasonable payment arrangement with the hospital. The payment arrangement will be based upon the Medicaid rate. In determining an applicant's eligibility, the municipality will budget the monthly payment to the hospital the applicant has agreed to pay. The applicant's need for assistance with a hospital bill will be considered each time he/she applies by including the amount of the bill in the applicant's monthly budget, but the recipient will be responsible for making any necessary payments to the hospital pursuant to the use-of-income requirements found at Sec. 10-606 of this ordinance.

(4) **Dental.** The municipality will pay for medically necessary dental services only. As is the case with medical services generally, the municipality will issue general assistance for dental services at the established Medicaid rates for those services, and before authorizing the general assistance benefit for dental services, the administrator will inform the dentist or dental surgeon of the municipality's intention to pay at the Medicaid rate. If full mouth extractions are necessary, the municipality will pay for dentures provided the applicant has no other resources to pay for the dentures. The applicant will be referred to a dental clinic in the area whenever possible. The administrator will expect the applicant to bear a reasonable part of the cost for dental services, including extractions and dentures, taking into account the applicant's ability to pay.

(5) **Eye Care.** In order to be eligible to receive general assistance for eyeglasses, an applicant must have his or her medical need certified by a person licensed to practice optometry. The general assistance administrator will provide assistance for eyeglasses to eligible persons only after the applicant has exhausted all other available resources and generally only at the Medicaid rate.

(6) **Telephone Charge.** Landline telephone service at the base rate and internet service at the base rate if necessary for employment or educational needs will be budgeted by the administrator if determined to be qualified expenses, but neither expense will be paid through the GA program.

(7) **Work-Related Expenses.** In determining need, reasonable and actual work-related expenses will be deducted from earned income. These expenses include the actual costs of public transportation or the current federal reimbursement rate per mile for a personal vehicle. If public mass transportation or alternative transportation is neither feasible nor practical, necessary car payments and insurance that do not exceed 20% of the after tax income from wages will be allowed, provided that said payment was in place at least 90 days prior to the request for general assistance. Driver's licensing fees, car registration fees, excise tax and car maintenance expenses will be budgeted as one-time non-recurring work-related expenses. Also included are reasonable childcare costs, work clothes and supplies. The applicant is required to provide documentation substantiating the costs and demonstrating that the expenses were necessary.

(8) **Travel Expenses.** In determining need, necessary travel which is not work-related will be budgeted if the applicant can satisfy the administrator that the prospective need for travel is necessary. Weekly transportation to a supermarket will be considered, as will any medically necessary travel. See ***Appendix G*** for the current rate at which such necessary travel will be budgeted. If the applicant is not determined to have qualified work-related expenses relating to ownership of an automobile as set forth in Sec. 10-608(f)(7) of this ordinance, this rate shall be construed to subsidize all costs associated with automobile ownership and operation, including gas/oil, tires, maintenance, insurance, financing, licensing/registration, excise tax, etc.

(9) **Burials, Cremations.** Under the circumstances and in accordance with the procedures and limitations described below (see Sec. 10-609 of this ordinance), the municipality recognizes its responsibility to pay for the

burial or cremation of eligible persons. See ***Appendix H*** for the current maximums.

(10) **Capital Improvements.** The costs associated with capital improvements/repairs (e.g., heating/water/septic system repair) will generally not be budgeted as a basic necessity. Exceptions can be made only when the capital improvement/repair has been pre-approved by the administrator as a necessary expense and the monthly cost of the capital improvement/repair has been reduced as far as reasonably possible; for example, by means of the applicant entering into an installment payment arrangement with the contractor. The administrator may grant general assistance for capital improvements when: (1) the failure to do so would place the applicant(s) in emergency circumstances; (2) there are no other resources available to effect the capital repair; and (3) there is no more cost-effective alternative available to the applicant or municipality to alleviate an emergency situation. In some cases, the entire immediate cost of the capital improvement can be mitigated by the applicant entering into an installment payment arrangement with a contractor. The municipality reserves the right to place a lien on any property pursuant to 22 M.R.S.A. § 4320 when general assistance has been used to effect a capital improvement. The lien process shall be accomplished in the same manner as for mortgage payments, as described in subsection (b) "Liens," above.

(Ord.No. 1-90/91, 8-6-90; Ord.No.10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93, Ord. No. 22-97/98, 5/18/98 [Fiscal Note: Less than $1000]' Ord. No. 18-00/01, 3/19/01 [Fiscal Note: less than $1000] Ord. No. 8-02/03, 1/22/03 [Fiscal Note: Less than $1000]; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000]; Ord. No. 13-11/12, 6/4/12 [Fiscal Note: Less than $1000])

Sec. 10-609. Burials; Cremations.

Funeral Director Must Give Timely Notice. In order for the municipality to be liable for a burial or cremation expense, the funeral director must notify the administrator prior to the burial or cremation or by the end of the next business day following the funeral director' receipt of the body, whichever is earlier (22 M.R.S.A. § 4313(2)). This contact by the funeral director shall begin the process of developing an application for burial/cremation assistance on behalf of the deceased. It is the funeral director's responsibility to make a good-faith effort to determine if the family or any other persons are going to pay all or part of the burial expenses. If family members or others are unable to pay the expenses, and the funeral director wants the municipality to pay all or part of the expenses, the funeral director must make timely contact to the municipal administrator. In addition, the funeral director may refer legally liable relatives to the administrator so that a timely determination of financial capacity may be accomplished.

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

With regard to residency, the municipality of responsibility for burial expenses shall be the municipality in which the eligible deceased person was a resident at the time of death as residency is determined under Sec. 10-410 of this ordinance.

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

The Financial Responsibility of Certain Family Members. Grandparents, parents, children and grandchildren of the deceased, who live in Maine or own property in Maine, are financially responsible for the burial or cremation of the deceased to the extent those relatives, individually or as a group, have a financial capacity to pay for the burial or cremation either in lump sum or by means of a budgeted payment arrangement with the funeral home. Accordingly, at the request of the administrator, all legally liable relatives must provide the municipal administrator with any reasonably requested information regarding their income, assets, and basic living expenses.

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

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

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

Ten Days to Determine Eligibility. The administrator may take up to 10 days from the date of contact by the funeral director to issue a written decision regarding the amount of the municipal contribution toward the burial or cremation. The 10-day eligibility determination period from the date of contact by the funeral director shall be used as necessary to make third-party collateral contacts, verify the listing of legally liable family members and determine their respective financial capacities to contribute to the burial or cremation, contact the personal representative of the deceased's estate, if any, and other related administrative tasks. The administrator shall not use this 10-day period allowed by law to unreasonably delay the municipality's decision.

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

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

Cremation Expenses. In the absence of any objection by any family members of the deceased, or when neither the administrator nor the funeral director can locate any family members, the administrator may issue general assistance for cremation

services. See ***Appendix H*** for the maximum levels of assistance granted for the purpose of cremations.

Sec. 10-610. Notice of decision.

Written decision. The administrator will give a written decision to each applicant after making a determination of eligibility each time a person applies. The decision will be given to the applicant within 24 hours of receiving a completed and signed application (22 M.R.S.A. § 4305(3); see Sec. 10-406 of this ordinance).

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

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

Contents. After an application has been completed, applicants will be given written notice of any decision concerning their eligibility for assistance. In addition to the contents of a written decision listed in Sec. 10-406 of this ordinance, the notice will state that applicants:

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

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

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

(Ord.No.1-90/91, 8-6-90; Ord.No.10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-611--10-700. Reserved.

DIVISION 7. THE FAIR HEARING

Sec. 10-701. Right to a fair hearing.

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000]

Sec. 10-702. Method of obtaining a fair hearing.

Upon receiving notification of the decision of the general assistance administrator, all claimants will be informed of the method of obtaining a fair hearing. All complaints that are not clear requests for a fair hearing will be answered by a personal interview or in writing by the general assistance

administrator. If the client is satisfied with the adjustment or explanation, the administrator will make an entry in the case record and file any correspondence involved.

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

(a) the decision on which review is sought;

(b) the reason(s) for the claimant's dissatisfaction and why the claimant believes he/she is eligible to receive assistance; and

(c) the relief sought by the claimant.

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

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

(a) be his or her own spokesperson at the fair hearing, or be represented by legal counsel or other spokesperson at the hearing, at the claimant's own expense;

(b) confront and cross-examine any witnesses presented at the hearing against the claimant; and

(c) present witnesses on his or her own behalf.

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-703. The fair hearing authority.

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

The fair hearing authority shall consist of one (1) or more members, as the city council shall designate, to serve one-year terms. The city council may also appoint one or more alternate members to serve when a regular member is unable to serve. The person(s) serving as the fair hearing authority must:

(a) not have participated in the decision which is the subject of the appeal;

(b) be impartial;

(c) be sufficiently skilled in interviewing techniques to be able to obtain evidence and the facts necessary to make a fair determination; and

(d) be capable of evaluating all evidence fairly and realistically, explaining to the claimant the laws and regulations under which the administrator operated, and interpreting to the administrator any evidence of unsound, unclear, or inadequate policies, practices or actions.

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-704. Fair hearing procedure.

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

(a) be conducted privately, and will be open only to the claimant, witnesses, legal counsel, or others whom the claimant wants present, and the general assistance administrator, his or her agents, counsel and witnesses;

(b) be opened with a presentation of the issue by the fair hearing authority;

(c) be conducted informally, without technical rules of evidence, but subject to the requirements of due process;

(d) allow the claimant and the administrator the option to present their positions for themselves or with the aid of others, including legal counsel;

(e) give all participants an opportunity to present oral or written testimony or documentary evidence, offer rebuttal; question witnesses presented at the hearing; and examine all evidence presented at the hearing;

(f) result in a decision, based exclusively on evidence or testimony presented at the hearing; and

(g) be tape recorded, and result in a written decision that is given to the claimant and filed with evidence introduced at the hearing. The fair hearing authority will allow the claimant to establish all pertinent facts and circumstances, and to advance any arguments without undue interference. Information that the claimant does not have an opportunity to hear or see will not be used in the fair hearing decision or made part of the hearing record. Any material reviewed by the fair hearing authority must be made available to the claimant or his or her representative. The claimant will be responsible for preparing a written transcript if he/she wishes to pursue court action.

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

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

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

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

In the event a claimant who is represented by legal counsel fails to appear at a fair hearing, legal counsel shall not testify in place of the claimant on matters of

"fact" but may cross examine witnesses and make "legal" arguments on behalf of the claimant.

(Ord.No. 1-90/91, 8-6-90; Ord.No.10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Sec. 10-705. The fair hearing decision.

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

(a) a statement of the issue;

(b) relevant facts brought out at the hearing;

(c) pertinent provisions in the law or general assistance ordinance related to the decision;

(d) the decision and the reasons for it.

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

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

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

(Ord.No. 1-90/91, 8-6-90; Ord.No. 14-93/94, 10-18-93)

Secs. 10-706--10-800. Reserved.

DIVISION 8. RECOVERY OF EXPENSES

Recipients. The municipality may recover the full amount of assistance granted to a person from either the recipient or from any person liable for the recipient, or his or her executors or administrators in a civil action. However, prior to recovering assistance granted, the municipality shall "offset" the value of any workfare performed by a GA recipient, at a rate not less than minimum wage. Prior to taking a recipient to court to recover the amount of assistance, the municipality will seek voluntary repayment from the recipient by notifying him/her in writing and discussing it with the recipient. The municipality shall not attempt to recover such costs if, as a result of the repayment, the person would again become eligible for general assistance (22 M.R.S.A. § 4318).

Recipients anticipating workers' compensation benefits. The municipality shall claim a lien for the value of all general assistance payments made to a recipient on any lump sum payment made to that recipient under the Workers' Compensation Act or similar law of any other state (22 M.R.S.A. § 4318, 39-A M.R.S.A. § 106). After issuing any general assistance on behalf of a recipient who has applied for or is receiving Workers' Compensation, the municipality shall file a notice of the municipal lien with the general assistance recipient and the Office of Secretary of State, Uniform Commercial Code division. The notice of lien shall be filed on a UCC-1 form, which must be signed by the recipient of general assistance who has applied for or is receiving Workers' Compensation. Any general assistance applicant who has applied for or who is receiving Workers' Compensation benefits and who refuses to sign a properly prepared UCC-1 form will be found ineligible to receive general assistance until he or she provides the required signature. The municipality shall also send a photocopy of that filing to the recipient's Worker's Compensation attorney, if known, the applicant's employer or the employer's insurance company, and, at the

administrator's discretion, to the Workers' Compensation Board. The lien shall be enforced at the time any lump sum Workers' Compensation benefit is issued.

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

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

(Ord.No.10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

DIVISION 9. SEVERABILITY

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

(Ord.No.10-91/92, 1-22-92; Ord.No. 14-93/94, 10-18-93; Ord. No. 14-08/09, 4/6/09 [Fiscal Note: Less than $1000])

Appendix A
Effective through 6/30/2013

GA Overall Maximums

Metropolitan Areas

COUNTY	Persons in Household 1	2	3	4	5*
Portland HMFA: Cape Elizabeth, Casco, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	731	868	1124	1416	1517

*Note: Add $75 for each additional person.

Appendix B
Effective through 9/30/2013

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, 2013, those amounts are:

Number in Household	Weekly Maximum	Monthly Maximum
1	46.51	200
2	85.35	367
3	122.33	526
4	155.35	668
5	184.42	793
6	221.40	952
7	244.65	1052
8	279.53	1202

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

Appendix C
Effective through 9/30/2013

GA Housing Maximums
(Heated & Unheated Rents)

Metropolitan FMR Areas

Portland HMFA Bedrooms	Unheated - Wk	Unheated - Mo	Heated - Wk	Heated - Mo
0	142.00	611.00	154.00	666.00
1	166.00	715.00	183.00	788.00
2	214.00	922.00	238.00	1023.00
3	271.00	1165.00	300.00	1292.00
4	274.00	1180.00	318.00	1367.00

Appendix D
Effective through 9/30/2013

Electric Utility Maximums

Without electric hot water
The maximum amounts allowed for utilities for lights, cooking, and other electric uses, excluding electric hot water are:

Number in Household	**Weekly**	Monthly
1	$14.00	$60.00
2	$15.70	$67.50
3	$17.45	$75.00
4	$19.20	$82.50
5	$21.00	$90.00
6	$22.70	$97.50

*Add $7.50 a month for each additional family member.

With electric hot water
The maximum amount allowed for electric utilities for dwelling units that have electrically heated hot water shall be $70 per month for the first member of the household, with an additional $10 per month for each additional household member.

Number in Household	**Weekly**	**Monthly**
1	$16.30	$ 70.00
2	$18.60	$ 80.00
3	$21.00	$ 90.00
4	$23.30	$100.00
5	$25.60	$110.00
6	$27.90	$120.00

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 amount for fuel as provided in ***Appendix E***.

In accordance with the following conditions, the administrator may allow as a budgetable expense the amount of an applicant's summer-loaded special payment arrangement (SPA) or budget payment arrangement (BPA), as calculated by the electric utility and entered into by the applicant, even when the arranged payment amount exceeds the above maximums or actual usage.

1) The SPA or BPA, when annualized, does not exceed the above monthly maximums, when annualized, for non-electrically heated dwelling units.

2) The SPA or BPA, when annualized, does not exceed the above monthly maximums and the fuel assistance maximums, when annualized, for electrically heated dwelling units.

3) The administrator determines, in consultation with the utility, that the payment arrangement does not include in any part the installment payment of past debt unless the municipality guaranteed to the utility the allowance of such an arrangement as a condition of averting a disconnection.

Pursuant to the use-of-income requirements in Sec. 10-606 of this ordinance, whenever the administrator budgets for SPA's or BPA's under this section, the recipient will be required to pay the SPA or BPA him or herself to the extent of the income capacity of the household.

Appendix E
Effective through 9/30/2013

Heating Fuel

When considering requests for heating fuel, eligible applicants will be granted assistance with the actual amount necessary up to the following maximums:

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

When the dwelling unit is heated by electricity, 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 or coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. However, no eligible applicant shall be considered to need more than:

- 7 tons of coal per year
- 8 cords of wood per year
- 126, 000 cubic feet of natural gas per year, or
- 1000 gallons of propane.

Appendix F
Effective through 9/30/2013

Personal Care & Household Supplies

Number in Household	Weekly Amount	Monthly Amount
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:

Number of Children	Weekly Amount	Monthly Amount
1	$12.80	$55.00
2	$17.40	$75.00
3	$23.30	$100.00
4	$27.90	$120.00

Appendix G
Effective through 9/30/2013

2012-2013 Mileage Rate

The City adopts the State of Maine travel expense reimbursement rate as set by the Office of the State Controller. The current rate (until September 30, 2013 for approved employment and necessary medical travel, etc. is 44 cents (44¢) per mile.

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

Appendix H
Effective through 9/30/2013

Funeral Maximums

Burial Maximums

The maximum amount of general assistance granted for the purpose of burial is **$1,500.** Additional costs may be allowed by the GA administrator, where there is an actual cost, for:

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

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

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

Cremation Maximums

The maximum amount of assistance granted for a cremation shall be **$1,000.** Additional costs may be allowed by the GA administrator where there is an actual cost, for:

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

ARTICLE IV. PAID SEXUAL CONTACT ORDINANCE

Sec. 10-901. Definitions.

For the purposes of this Article, the following definitions apply:

Sexual contact means any touching of the genitals, directly or through clothing, for the purpose of arousing or gratifying sexual desire.

Pecuniary benefit means any direct or indirect payment of money or any other object of value.

(Ord. No. 8-92/93, 10-19-92)

Sec. 10-902. Sexual contact for pecuniary benefit prohibited.

(a) Engaging in, or agreeing to engage in, or offering to engage in sexual contact in return for a pecuniary benefit to be received by the person engaging in the sexual contact or by a 3rd person is prohibited.

(b) Providing or agreeing to provide a person for purposes of engaging in sexual contact in return for a pecuniary benefit to be received by the person engaging in the sexual contact or by a 3rd person is prohibited.

(c) Causing or aiding another person to engage in sexual contact in return for a pecuniary benefit to be received by the person engaging in the sexual contact or by a 3rd person is prohibited.

(d) Leasing or otherwise permitting a place controlled by the defendant in any action to enforce this Article, alone or in association with others, to be used as a site for sexual contact for pecuniary benefit to any person is prohibited.

(Ord. No. 8-92/93, 10-19-92)

Sec. 10-903. Penalties.

The violation of any provision of this article shall be punished by a fine not less than five hundred dollars ($500) nor more than one thousand dollars ($1000) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the city may enjoin or abate any violation of this article by appropriate action, including but not limited to revocation of any city license for a premises or business in which sexual contact for pecuniary benefit is transacted.

(Ord. No. 8-92/93, 10-19-92)

Sec. 10-904. Severability.

If any section, phrase, sentence or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Ord. No. 8-92/93, 10-19-92)

Sec. 10-905 to 10-1000. Reserved.

(Ord. 17-92/93, 4-5-93 & Referendum confirmation 11-2-93)

ARTICLE V. PUBLIC INDECENCY ORDINANCE

Sec. 10-1001. Purpose.

The two purposes of this ordinance are (1) to prohibit certain acts of commercial exploitation of human sexuality in commercial or business establishments within the City of South Portland in order to reduce the likelihood of criminal activity, moral degradation, sexually transmitted diseases and disturbances of the peace and good order of the community which may occur when such commercial exploitation is permitted in such places, and (2) to protect the health, safety, welfare and morals of the community by using the government's recognized and traditional police power to protect societal order, morality and physical and emotional health in public places without infringing on protected First Amendment rights.

(Ord. No. 17-92/93, 4-5-93 & Referendum confirmation 11/2/93)

Sec. 10-1002. Definitions.

For the purposes of this section, the following definitions apply:

(a) *Sexual intercourse* means any penetration of the female sex organ by the male sex organ. Emission is not required.

(b) *Sexual act* means any act of sexual gratification between 2 persons involving direct physical contact between the sex organs of one and the mouth or anus of the other or direct physical contact between the sex organs of one and the sex organs of the other, or direct physical contact between the sex organs of one and an instrument or device manipulated by the other. A sexual act may be proved without allegation or proof of penetration.

(c) *Sexual contact* means any touching of the genitals, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire.

(d) *Nudity* means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(e) *Public place* means a place to which the public at large or a substantial group has access, including but not limited to commercial or business establishments, public ways, schools, government-owned facilities, and the lobbies, hallways and basement portions of apartment houses, hotels, motels, public buildings and transportation terminals.

(f) *Public indecency* means the knowing or intentional commission of an act of sexual intercourse, a sexual act, sexual contact or nudity in a public place.

(Ord. No. 17-92/93, 4-5-93 & Referendum confirmation 11/2/93)

Sec. 10-1003. Public indecency prohibited.

(a) Engaging in public indecency is prohibited.

(b) Encouraging or permitting another person or persons to engage in an act or acts of public indecency by the person who or entity which owns, leases or otherwise controls a premises on which the act or acts of public indecency occur(s) is prohibited.

(Ord. No. 17-92/93, 4-5-93 & Referendum confirmation 11/2/93)

Sec. 10-1004. Penalties.

The violation of any provision of this article shall be punished by a fine not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the city may enjoin or abate any violation of this article by appropriate action, including but not limited to revocation of any City license for a premises or commercial or business establishment in which the public indecency occurs.

(Ord. No. 17-92/93, 4-5-93 & Referendum confirmation 11/2/93)

Sec. 10-1005. Severability.

If any section, phrase, sentence or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Ord. No. 17-92/93, 4-5-93 & Referendum confirmation 11/2/93)

Sec. 10-1006. Nursing women.

Notwithstanding any City ordinance to the contrary, no City ordinance shall prohibit, or be interpreted or construed to prohibit or regulate, women from nursing or breast-feeding in public or private.

(Ord. 23-92/93, 7-7-93)

Sec. 10-1007 to 10-1100. Reserved.

(Ord. No. 17-92/93, 4-5-93 & Referendum confirmation 11/2/93)

ARTICLE VI. DISCRIMINATION BASED ON SEXUAL ORIENTATION

DIVISION 1. GENERALLY

Sec. 10-1101. Legislative findings and statement of policy.

The City finds that:

(1) The population of the City of South Portland is diverse and includes people of every sexual orientation, some of whom are at risk of being discriminated against in employment opportunities, housing, access to public accommodations and in the extension of financial credit; and

(2) Neither the federal government, nor the state, nor the city currently has any law prohibiting discrimination based on sexual orientation.

Therefore, to protect the public health, safety and welfare, it is declared to be the policy of this City to prevent discriminatory practices that infringe on the basic human right to a life with dignity, and the causes of such practices, so that corrective measures may, where possible, be promptly recommended and implemented, and to prevent discrimination in employment, housing, access to public accommodations or in the extension of credit on account of sexual orientation.

Sec. 10-1102. Definitions. As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

Discriminate. "Discriminate" includes, without limitation, segregate or separate.

Employee. "Employee" does not include any individual employed by his parents, spouse or child. For the purpose of this Article, "Employee" includes but is not limited to, unpaid volunteers.

Employer. "Employer" includes any person in this city employing any number of employees, whether paid or volunteer, whatever the place of employment of such employees, and any person outside this city employing any number of employees whose usual place of employment is in this city; any person acting in the interest of any employer, directly or indirectly; and labor organizations, whether or not organized on a religious, fraternal or sectarian basis, with respect to their employment of employees; but does not include a religious or fraternal corporation or association, not organized for private profit and in fact not conducted for private profit, with respect to employment of its members of the same religion, sect or fraternity.

Employment agency. "Employment agency" includes any person undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees; it includes, without limitation, placement services, training schools and centers, and labor organizations, to the extent that they act as employee referral sources; and it includes any agent of such person.

Housing accommodation. "Housing accommodation" includes any building or structure or portion thereof, or any parcel of land, developed or undeveloped, which is occupied, or is intended to be occupied or to be developed for occupancy, for residential purposes excepting:

(1) The rental of a one-family unit of a two-family dwelling, one (1) unit of which is occupied by the owner;

(2) The rental of not more than four (4) rooms of a one-family dwelling which is occupied by the owner;

(3) The rental of any dwelling owned, controlled or operated for other than a commercial purpose by a religious corporation to its membership unless such membership is restricted on account of sexual orientation.

Person. "Person" includes one (1) or more individuals, partnerships, associations, organizations, corporations, municipal corporations, legal representatives, trustees, trustees in bankruptcy, receivers and other legal representatives, and includes the city and all agencies thereof.

Place of public accommodation. "Place of public accommodation" means any establishment which in fact caters to, or offers it goods, facilities or services to, or solicits or accepts patronage from, the general public; and it includes, but is not limited to: inns, taverns, roadhouses, hotels, whether conducted for the entertainment or accommodation of transient guests or of those seeking health, recreation or rest, restaurants, eating houses or any place where food is sold for consumption on the premises; buffets, saloons, barrooms or any store, park or enclosure where spirituous or malt liquors are sold, ice cream parlors, confectioneries, soda fountains and all stores where beverages of any kind are retailed for consumption on the premises; retail stores and establishments; dispensaries, clinics, hospitals, rest rooms, bathhouses, barber shops, beauty parlors, theaters, motion picture houses, music halls, airdromes, roof gardens, race courses, skating rinks, amusement and recreation parks, fairs, bowling alleys, golf courses, gymnasiums, shooting galleries, billiard and pool parlors, swimming pools, seashore accommodations and boardwalks, public libraries, garages and gasoline stations; all public conveyances operated on land, water or in the air as well as the stations and terminals thereof; public halls and public elevators of buildings occupied by two (2) or more tenants or by the owner and one (1) or more tenants; and educational institutions.

Real estate broker and salesman. "Real estate broker" and "real estate salesman" have the same definitions as are given respectively in Title 32, Section 4001, subsections 2 and 3 of the Maine Revised Statutes Annotated; but include all persons meeting those definitions, whether or not they are licensed or required to be licensed.

Sexual orientation. "Sexual orientation" means having an orientation for, or being identified as having an orientation for, heterosexuality, homosexuality or bisexuality, having a history of that preference or being identified with that preference.

DIVISION 2. FAIR EMPLOYMENT

Sec. 10-1103. Unlawful employment discrimination.

It shall be unlawful employment discrimination, in violation of this article, except where based on a bona fide occupational qualification:

(1) For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of sexual orientation or because of such reason

to discharge an employee or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment, or in recruiting of individuals for employment or in hiring them, to utilize any employment agency which such employer knows, or has reasonable cause to know, discriminates against individuals because of their sexual orientation.

(2) For any employment agency to fail or refuse to classify properly or refer for employment or otherwise discriminate against any individual because of sexual orientation, or to comply with an employer's request for the referral of job applicants, if such request indicates whether directly or indirectly that such employer will not afford full and equal employment opportunities to individuals regardless of their sexual orientation.

(3) For any labor organization to exclude from apprenticeship or membership, or to deny full and equal membership rights, to any applicant for membership, because of sexual orientation, or because of such reason to deny a member full and equal membership rights, expel from membership, penalize or otherwise discriminate in any manner with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment, representation, grievances or any other matter directly or indirectly related to membership or employment, whether or not authorized or required by the constitution or bylaws of such labor organization or by a collective labor agreement or other contract, or to fail or refuse to classify properly or refer for employment, or otherwise to discriminate against any member because of such sexual orientation, or to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(4) For any employer or employment agency or labor organization, prior to employment or admission to membership of any individual, to:

a. Elicit or attempt to elicit any information directly or indirectly pertaining to sexual orientation except where some privileged information is necessary for an employment agency or labor organization to make a suitable job referral;

b. Make or keep a record of sexual orientation;

c. Use any form of application for employment or personnel or membership blank containing questions or entries directly or indirectly pertaining to sexual orientation;

d. Print or publish or cause to be printed or published any notice or advertisement relating to employment or membership indicating any preference, limitation, specification or discrimination based upon sexual orientation;

e. Establish, announce or follow a policy of denying or limiting, through a quota system or otherwise, employment or membership opportunities of any group because of sexual orientation; or

(5) For an employer or employment agency or labor organization to discriminate in any manner against any individual because they have opposed any practice which would be a violation of this article, or because they have made a charge, testified or assisted in any manner in any investigation, proceeding or hearing under this article.

Sec. 10-1104. Not unlawful employment discrimination.

It shall not be unlawful employment discrimination:

(1) *Records*. After employment or admission to membership, to make a record of such features of an individual as are needed in good faith for the purpose of identifying them, provided such record is intended and used in good faith solely for such identification, and not for the purpose of discrimination in violation of this article.

(2) *Required records*. To record any data required by law, or by the rules and regulations of any state or federal agency, provided such records are kept in good faith for the purpose of complying with law, and are not used for the purpose of discrimination in violation of this article.

DIVISION 3. FAIR HOUSING

Sec. 10-1105. Unlawful housing discrimination.

It shall be unlawful housing discrimination, in violation of this article:

(1) For any owner, lessee, sublessee, managing agent or other person having the right to sell, rent, lease or manage a housing accommodation, or any agent of these to make or cause to be made any written or oral inquiry concerning the sexual orientation of any prospective purchaser, occupant or tenant of such housing accommodation; or to refuse to show or refuse to sell, rent, lease, let or otherwise deny to or withhold from any individual such housing accommodation because of sexual orientation of such individual; or to issue any advertisement relating to the sale, rental or lease of such housing accommodation which indicates any preference, limitation, specification or discrimination based upon sexual orientation; or to discriminate against any individual because of sexual orientation in the price, terms, conditions or privileges of the sale, rental or lease of any such housing accommodations or in the furnishing of facilities or services in connection therewith, or to evict or attempt to evict any tenant of any housing accommodation because of sexual orientation;

(2) For any real estate broker or real estate sales person, or agent of one (1) of them, to fail or refuse to show any applicant for a housing accommodation any such accommodation listed for sale, lease or rental, because of sexual orientation of such applicant or of any intended occupant of such accommodation, or to misrepresent for the purpose of discriminating on account of sexual orientation of such applicant or intended occupant the availability or asking price of a housing accommodation listed for sale, lease or rental; or for such a reason to fail to communicate to the person having the right to sell or lease such housing accommodation any offer for the same made by any applicant thereof; or in any other manner to discriminate against any applicant for housing because of sexual orientation of such applicant or of any intended occupant of the housing accommodation, or to make or cause to be made any written or oral inquiry or record concerning the sexual orientation of any such applicant or intended occupant, or to accept for listing any housing accommodation when the person having the right to sell or lease the same has directly or indirectly indicated an intention of discriminating among prospective tenants or purchasers on the ground of their sexual orientation; or

(3) For any person to whom application is made for a loan or other form of financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation, whether secured or unsecured, or agent of

such person, to make or cause to be made any oral or written inquiry concerning the sexual orientation of any individual seeking such financial assistance, or of existing or prospective occupants or tenants of such housing accommodations; or to discriminate in the granting of such financial assistance, or in the terms, conditions or privileges relating to the obtaining or use of any such financial assistance, against any applicant because of the sexual orientation of such applicant or of the existing or prospective occupants or tenants.

Sec. 10-1106. Application.

Nothing in this article shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person having the right to sell, rent, lease or manage a housing accommodation to set up and enforce specifications in the selling, renting, leasing or letting thereof or in the furnishings of facilities or services in connection therewith which are not based on the sexual orientation of any prospective or actual purchaser, lessee, tenant or occupant thereof. Nothing in this article contained shall be construed in any manner to prohibit or limit the exercise of the privilege of every person and the agent of any person making loans for or offering financial assistance in the acquisition, construction, rehabilitation, repair or maintenance of housing accommodations to set standards and preferences, terms, conditions, limitations or specifications for the granting of such loans or financial assistance which are not based on the sexual orientation of any existing or prospective owner, lessee, tenant or occupant of such housing accommodation.

DIVISION 4. PUBLIC ACCOMMODATIONS

Sec. 10-1107. Unlawful public accommodations.

It shall be unlawful public accommodations discrimination, in violation of this article:

(1) For any person, being the owner, lessee, proprietor, manager, superintendent, agent or employee of any place of public accommodation, to directly or indirectly refuse, withhold from or deny to any person, on account of sexual orientation, any of the accommodations, advantages, facilities or privileges of such place of public accommodation, or for such reason in any manner to discriminate against any person in the price, terms or conditions upon which access to such accommodations, advantages, facilities and privileges may depend; or

(2) For any person to directly or indirectly publish, circulate, issue, display, post or mail any written, printed, painted or broadcast communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities and privileges of any place of public accommodation shall be refused, withheld from or denied to any person on account of sexual orientation, or that the patronage or custom thereat of any person belonging to or purporting to be of any particular sexual orientation is unwelcome, objectionable or not acceptable, desired or solicited, or that the clientele thereof is restricted to members of particular sexual orientation. The production of any such written, printed, painted or broadcast communication, notice or advertisement, purporting to relate to any such place, shall be presumptive evidence in any action that the same was authorized by its owner, manager or proprietor.

DIVISION 5. FAIR CREDIT EXTENSION

Sec.10-1108. Unlawful credit extension discrimination.

It shall be unlawful credit discrimination for any creditor to refuse the extension of credit to any person solely on the basis of sexual orientation in any credit transaction. It shall not be unlawful credit discrimination to comply with the terms and conditions of any bona fide group credit life, accident and health insurance plan, for a financial institution extending credit to a married person to require both the husband and the wife to sign a note and a mortgage and to deny credit to persons under the age of eighteen (18) or to consider a person's age in determining the terms upon which credit will be extended.

Sec. 10-1109 Definitions.

As used in this division, unless the context otherwise requires, the following words shall have the following meanings:

Application for credit. "Application for credit" means any communication, oral or written, by a person to a creditor requesting an extension of credit to that person or to any other person, and includes any procedure involving the renewal or alteration of credit privileges or the changing of the name of the person to whom credit is extended.

Credit. "Credit" means the right granted by a creditor to a person to defer payment of debt or to incur debt and defer its payment, or purchase property or services and defer payment therefor.

Credit sale. "Credit sale" means any transaction with respect to which credit is granted or arranged by the seller. The term includes any contract in the form of a bailment or lease if the bailee or lessee contracts to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the property and services involved and it is agreed that the bailee or lessee will become the owner of the property upon full compliance with his obligations under the contract.

Credit transaction. "Credit transaction" means any invitation to apply for credit, application for credit, extension of credit or credit sale.

Creditor. "Creditor" means any person who regularly extends or arranges for the extension of credit for which the payment of a finance charge or interest is required, whether in connection with loans, sale of property or services or otherwise.

Extension of credit. "Extension of credit" means any acts incident to the evaluation of an application for credit and the granting of credit.

Invitation to apply for credit. "Invitation to apply for credit" means any communication, oral or written, by a creditor which encourages or prompts an application for credit.

DIVISION 6. ENFORCEMENT

Sec. 10-1110 Enforcement by City or Private Individual.

The City Council recognizes that both government and private individuals have legitimate interests in preventing and responding to human rights violations. Therefore, the provisions of this Article may be enforced by either one or both of the following procedures:

(a) City enforcement. This Article may be enforced by the South Portland Police Chief, or his/her designee in the South Portland Police Department, in conjunction with the Corporation Counsel or other authorized legal counsel for the City. An enforcement action pursuant to this authority may be initiated by a complaint from a person alleging discrimination or may be initiated by the City.

(b) Private enforcement. This Article may be enforced in Maine District Court as a local ordinance enforcement action brought by a private individual alleging discrimination in violation of this Article. Within the time limit stated in Section 10-1112(3) below, a person who has been subject to unlawful discrimination may directly file a private enforcement action against the person or persons who committed the unlawful discrimination.

Sec. 10-1111. Burden of proof.

In any civil action under this article, the burden shall be on the person seeking relief to prove, by a fair preponderance of the evidence, that the alleged unlawful discrimination occurred.

Sec. 10-1112. Actions filed under this article.

In any action filed under this article by any person:

(1) Where any person who has been the subject of alleged unlawful housing discrimination has not acquired substitute housing, temporary injunctions against the sale or rental to others of the housing accommodations as to which the violation allegedly occurred, or against the sale or rental of a single housing accommodation substantially identical thereto and controlled by the alleged violator shall be liberally granted in the interests of furthering the purposes of this article, when it appears probable that the plaintiff will succeed upon final disposition of the case.

(2) If the court finds that unlawful discrimination occurred, its judgment shall specify an appropriate remedy or remedies therefor. Such remedies may include, but are not limited to:

a. An order to cease and desist from the unlawful practices specified in the order;

b. An order to employ or reinstate a victim of unlawful employment discrimination, with or without back pay;

c. An order to accept or reinstate such a person in a union;

d. An order to rent or sell a specified housing accommodation, or one (1)

substantially identical thereto if controlled by the respondent, to a victim of unlawful housing discrimination;

e. An order requiring the disclosure of the locations and descriptions of all housing accommodations which the violator has the right to sell, rent, lease or manage;

f. An order to pay in cases of unlawful price discrimination the victim thereof three (3) times the amount of any excessive price demanded and paid by reason of such unlawful discrimination; and

g. An order to pay to the complainant civil penal damages not in excess of one thousand dollars ($1,000.00) in the case of the first order under this article against the respondent, not in excess of two thousand dollars ($2,000.00) in the case of a second such order against the respondent, and not in excess of three thousand dollars ($3,000.00) in the case of a third or subsequent such order against the respondent.

(3) The action shall be commenced not more than two (2) years after the act of unlawful discrimination complained of.

Sec. 10-1113. Attorneys' fees and costs.

In any civil action under this article, the court, in its discretion, may allow the prevailing party reasonable attorneys' fees and costs.

DIVISION 7. MISCELLANEOUS

Sec. 10-1114. Exceptions.

In addition to the other exceptions and exemptions provided in this Article, this Article does not:

(1) Require the teaching of any particular subject in the public schools;

(2) Apply to a religious corporation, association or organization; or
(3) Require any form of affirmative action based on sexual orientation.

Sec. 10-1115. Severability.

If any section, phrase, sentence or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Referendum 11/3/98, effective 11/9/98)

Sec. 10-1116—10-1120. Reserved.

ARTICLE VII. RESERVED

Sec. 10-1121. -- Sec. 10-1133. Repealed

(Ord. No. 6-98/99, 9/9/98 [Fiscal Note: Less than $1000]; Ord. No. #8-12/13, 11/19/12 [Fiscal Note: Less than $1000])

ARTICLE VIII. PROPERTY TAX ASSISTANCE ORDINANCE

Sec. 10-1201. Purpose

The purpose of this Ordinance is to establish a program pursuant to Chapter 907-A of Title 36 of the Maine Revised Statutes to provide property tax assistance to persons 70 years of age and over who reside in the City of South Portland. Under this program, the City of South Portland will provide supplemental refund payments to those individuals who qualify as South Portland resident beneficiaries of the State of Maine Residents Property Tax Program (State Circuit Breaker Program) pursuant to Chapter 907 of Title 36 of the Maine Revised Statutes and meet the criteria established by this Ordinance.

Sec. 10-1202. Definitions

Finance Director: The Finance Director or his/her designee.

Homestead: A homestead is a dwelling owned or rented by the person seeking tax assistance under this Ordinance or held in a revocable living trust for the benefit of that person. The dwelling must be occupied by that person and that person's dependents as a home.

Property Tax Assistance Program: The program established by the City of South Portland under this Ordinance. Also referred to as the "Program."

Qualifying applicant: A qualifying applicant is a person who is determined by the Finance Director, after review of a complete application under Section 10-1204 of this Ordinance, to be eligible for a refund payment under the terms of this Ordinance.

Sec. 10-1203. Criteria for Participation

In order to participate in the Property Tax Assistance Program, an applicant shall demonstrate all of the following:

a. The applicant is 70 years of age or older at the time of application.

b. The applicant has owned or rented a homestead in the City of South Portland at the time of the application and for the entire two years prior to the date of application.

c. The applicant has received a refund under the provisions of Chapter 907 of Title 36 of the Maine Revised Statutes.

d. The applicant has been a resident of the City of South Portland for at least ten out of the last 12 years immediately preceding the date of application for participation in the Program.

e. If the applicant owns the homestead, the applicant shall have applied for a homestead property tax exemption pursuant to the Maine Resident Homestead Property Tax Exemption program.

Sec. 10-1204. Application and Payment Procedures

Persons seeking to participate in the Property Tax Assistance Program shall submit no more than one written application to the Finance Director between **September 1st** and **April 15th** of the following year. Applications filed between September 1st and December 1st will be processed as Phase 1 applications, and applications filed between December 2nd and April 15th of the following year will be processed as Phase 2 applications. Applications are required every year to participate in the Program. The Finance Director shall provide an annual application form for the Program, which shall include, at a minimum, the applicant's name, homestead address and contact information. Attached to all applications shall be proof and dollar amount

(copy of check) of his/her State Refund under Chapter 907 of Title 36 of the Maine Revised Statutes (State Circuit Breaker Program). Based on the timing of applications and refunds under the State Circuit Breaker Program, an application under this Program relates to taxes assessed or rent paid approximately two years prior. For example, an application relating to property tax assessed and/or rent paid in calendar year 2012 must be filed between September 1, 2013 and April 15, 2014. The Finance Director shall review and determine if the application is complete and accurate and if the applicant is otherwise eligible to participate in the Program. The Finance Director shall notify an applicant if an application is determined to be incomplete. The Finance Director's decision on eligibility to participate in the Program shall be final.

(Ord. No. 9-12/13, 12/3/12 [Fiscal Note: Less than $1000])

Sec. 10-1205. Determination of Eligibility and Amount of Eligibility

If the Finance Director determines that the applicant is eligible to participate in the Program, he/she shall determine the total amount of such eligibility. Eligibility shall be the lesser of the following amounts:

a. One quarter (1/4) of the amount of the refund awarded by the State under Chapter 907, Title 36 of the Maine Revised Statutes (State Circuit Breaker Program); or

b. A pro rata share of available monies in the Program Fund based on the amount of one's State Refund under Chapter 706 of Title 36 of the Maine Revised Statutes (State Circuit Breaker Program); or

c. $400.00.

The Finance Director shall report to the City Council in April of each year the projected payments and number of eligible applicants requesting assistance from the Program Fund.

(Ord. No. 9-12/13, 12/3/12 [Fiscal Note: Less than $1000])

Sec. 10-1206. Program Fund - Limitations upon Payments

Payments under this Ordinance shall be conditioned upon the existence of sufficient monies in the Program Fund the fiscal year in which participation is sought. If there are not sufficient monies in the Program Fund to pay all qualifying applicants per application phase under this Ordinance, payments shall be limited to the amounts available in the Fund on a pro rata basis to each eligible participant per application phase of the Program based on the amount of one's State Refund under Chapter 907 of Title 36 of the Maine Revised Statutes (State Circuit Breaker Program). In the event that a lack of funding results in no payment or less than the full payment to a qualifying applicant, the request will not carry over to the next year.

(Ord. No. 9-12/13, 12/3/12 [Fiscal Note: Less than $1000])

Sec. 10-1207. Creation of the Program Fund

The Program Fund from which payments shall be made under the terms of this Ordinance shall be created as follows:

As funds are available, the City Council shall annually appropriate funding from the General Fund or other sources to support this Program. Any surplus monies available after all payments have been made shall remain in the dedicated reserve account hereby established for this Program and shall not lapse into the City's undesignated fund balance.

Sec. 10-1208. Timing of Payments

A person who qualifies for a refund under the Program shall have his/her property tax account credited (if the account related to the homestead is still in the name of the eligible applicant) or, if the property tax account related to the homestead is not in the name of the eligible applicant, be mailed a check for the amount of

the refund no later than February 1 for Phase I applicants and no later than May 1 for Phase 2 applicants.

(Ord. No. 9-12/13, 12/3/12 [Fiscal Note: Less than $1000])

Sec. 10-1209. Limitations upon Payments

Only one qualifying applicant per homestead shall be entitled to payment under the Program each year. The right to file an application under this Ordinance is personal to the applicant and does not survive the applicant's death, but the right may be exercised on behalf of an applicant by the applicant's legal guardian or attorney-in-fact. If an applicant dies after having filed a timely complete application that results in a determination of qualification, the amount determined by the Finance Director shall be disbursed to another member of the household as determined by the Finance Director. If the applicant was the only member of a household, then no payment shall be made under this Ordinance.

Sec. 10-1210. Relationship to Poverty Abatement and General Assistance Applications

The amount of any refund received by a qualifying applicant under this Program may be considered by the City in determining eligibility for a poverty abatement or general assistance.

(Ord. No. 13-10/11, 6/6/11 [Fiscal Note: Less than $1000])

Sec. 10-1211. Applicability

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law to the contrary, the amendments to this Ordinance, as evidenced by Ordinance #9-12/13, when enacted, shall govern applications relating to property tax assessed and/or rent paid in calendar year 2011 and thereafter, such that applications relating to property tax assessed and/or rent paid in calendar year 2011 must be filed no later than April 15, 2013 and those applications will be processed in two phases and any payments will be made in two phases.

(Ord. No. 9-12/13, 12/3/12 [Fiscal Note: Less than $1000])