

***SELECTMEN'S EPACKET***  
***List of Files***  
***December 6, 2011***

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**Part Two**

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----- Original Message -----

**Subject:** FW: Efficiency Maine PACE program documents

**Date:** Fri, 7 Oct 2011 15:58:03 +0000

**From:** Dana Fischer <[dana.fischer@efficiencymaine.com](mailto:dana.fischer@efficiencymaine.com)>

**To:** [Leo@mymainecastle.com](mailto:Leo@mymainecastle.com) <[Leo@mymainecastle.com](mailto:Leo@mymainecastle.com)>

**CC:** [don.willard@raymondmaine.org](mailto:don.willard@raymondmaine.org) <[don.willard@raymondmaine.org](mailto:don.willard@raymondmaine.org)>

Hi Leo,

Thank you for your inquiry about the Maine PACE program. We would love to have Raymond join the 95 municipalities across the state that have passed a PACE ordinance and established an administrative contract with Efficiency Maine enabling residents to tap into the pool of PACE loan funds. I have attached the model ordinance and contract that have been used by towns to get started. Below is a link to the PACE webpage when more information about the program is available.

The loan program enables residents to borrow up to \$15,000 over 15 years to make energy efficiency improvements and heating system upgrades that frequently result in annual fuel savings that exceed the cost of monthly payments. Efficiency Maine manages all aspects of the program with no cost or liability on the part of towns. We do ask that towns commit to provide materials about weatherization to homeowners, but the level of interaction is entirely at the discretion of the town.

In the past year, more than 3100 homes were upgraded through Efficiency Maine programs. The average project cost was \$8,800, but the average expected energy savings is 40%.

<http://www.efficiencymaine.com/pace>

If you have any questions about the program or documents, do not hesitate to contact me.

Best regards,

Dana

Dana Fischer  
Residential Program Manager  
Efficiency Maine  
[dana.fischer@efficiencymaine.com](mailto:dana.fischer@efficiencymaine.com)  
[www.efficiencymaine.com](http://www.efficiencymaine.com)  
(207) 650-8774

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From: Leo's office Mail [[Leo@mymainecastle.com](mailto:Leo@mymainecastle.com)]

Sent: Friday, October 07, 2011 11:08 AM

To: Dana Fischer

Subject: getting my town to participate with the Pace program

Hi Dana, I am advocating for the Pace program to get Raymond to adopt and embrace the program and make it available for its residents. I'm sure many residents are not aware of this worthwhile program.

Any documentation you could forward that I can send to the town manager would be good.

His name is Don Willard at [don.willard@raymondmaine.org](mailto:don.willard@raymondmaine.org)

thank You

Leo Tetreault Broker CRS

RE/MAX Allied

909 Roosevelt Trail

Windham, ME 04062

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207-892-2214 x 127 office

207-310-8669 Cell

# Program Information For Maine's Municipalities

Efficiency Maine is excited to be partnering with Maine's municipalities to provide attractive home energy improvement financing to your residents. PACE loans can deliver meaningful energy savings to homeowners seeking to make cost-effective home energy improvements. Efficiency Maine's cash incentives and financing can help residents save money, make valuable improvements to their property, and possibly increase the resale value of their home.

To get a PACE loan in Maine, a customer's property must be located in a municipality that has adopted a PACE ordinance. Unless and until a municipality adopts a PACE ordinance, the homeowner cannot obtain a PACE loan. Efficiency Maine has developed a Model PACE Ordinance on which towns can base their own ordinances. [Click here for Model Ordinance](#), in which Efficiency Maine will administer the PACE program on behalf of the municipality. [Click here for a Model Contract](#). [Click here for the List of Municipalities \(PDF\)](#) that have notified Efficiency Maine that they have passed a PACE Ordinance.

For municipalities that adopt ordinances using the town meeting approach, there can be a significant lag time between opportunities to adopt an ordinance. As such, it is important to place the PACE ordinance on your agenda as time permits.

Here you will find:

- [Background information](#) on the Maine PACE law and the Home Energy Savings Program
- [Model PACE Ordinance](#) that municipal governments adopt if they want to provide Maine PACE financing to homeowners
- [Frequently Asked Questions \(FAQs\)](#) and answers about PACE

## Next Steps

Interested in having your community pass a PACE ordinance? Email Dana Fischer at [dana.fischer@efficiencymaine.com](mailto:dana.fischer@efficiencymaine.com) or Peter Roehrig at [peter.roehrig@efficiencymaine.com](mailto:peter.roehrig@efficiencymaine.com).

**Town Meeting/City or Town Council Question:**

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

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

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

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

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

WHEREAS, the Municipality has adopted a PACE Ordinance; and

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

WITNESSETH:

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

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

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

1.2. PACE District. “PACE District” means the area within which the Municipality establishes a PACE Program under this Contract, which is all of that area within the Municipality’s boundaries.

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

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

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

- A. the Trust will enter into PACE Agreements with owners of Qualifying Property in the Municipality’s PACE District;
- B. the Trust, or its agent, will create and record a Notice of the PACE Agreement in the appropriate County Registry of Deeds to create a PACE Mortgage;
- C. the Trust, or its agent, will disburse the PACE Loan to the property owner;
- D. the Trust, or its agent, will send PACE Assessment statements with payment deadlines to the property owners;
- E. the Trust, or its agent, will be responsible for collection of the PACE Assessments;
- F. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the PACE Assessment;
- G. the Trust or its agent, promptly shall record the discharge of a PACE mortgage upon full payment of the PACE loan;
- H. the Trust, or its agent, will be responsible for management of federal grant funds; and
- I. the Trust, or its agent, will ensure the collection of data required to quantify carbon savings and to facilitate access to and eligibility for voluntary carbon

markets, for federal grants for energy efficiency and for other incentive programs that support Energy Saving Improvements.

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

### 3. MUNICIPALITY'S RESPONSIBILITIES.

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

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

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

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

3.5. Conformity. If standards or rules and regulations are adopted by any State or federal agency subsequent to the Municipality's adoption of a PACE Ordinance or participation in a PACE Program and those standards or rules and regulations substantially conflict with the Municipality's manner of participation in the PACE Program, the Municipality, should it desire to continue its participation in the PACE Program, will be required to take necessary steps to conform its participation to those standards or rules and regulations.

### 4. TERM.

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

### 5. TERMINATION.

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

## 6. LIABILITY.

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

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

## 7. MISCELLANEOUS PROVISIONS.

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

To the Municipality:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the Trust:

Efficiency Maine Trust  
151 Capitol Street, Suite 1  
Augusta, ME 04330-6262  
Attention: Dana Fischer

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

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



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

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

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

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

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

MUNICIPALITY

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name  
Its: \_\_\_\_\_ (Title)

EFFICIENCY MAINE TRUST

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Michael Stoddard  
Its: Executive Director (Title)

# **MODEL PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE**

## **Administration by the Efficiency Maine Trust**

### **PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.**

#### **PREAMBLE**

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

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

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

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

#### **ARTICLE I - PURPOSE AND ENABLING LEGISLATION**

##### **§ XX-1 Purpose**

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

##### **§ XX-2 Enabling Legislation**

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

## ARTICLE II - TITLE AND DEFINITIONS

### § XX-3 Title

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

### § XX-4 Definitions

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

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

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

- (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or
- (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

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

**2. Municipality.** “Municipality” shall mean the City/Town of \_\_\_\_\_  
\_\_\_\_\_.

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

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

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

### **ARTICLE III - PACE PROGRAM**

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

**2. Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

#### **ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST**

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

#### **ARTICLE V – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY**

**1. Program Administration**

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

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

- vii. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

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

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

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

## **2. Liability of Municipal Officials; Liability of Municipality**

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

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

Municipalities that have passed a PACE ordinance  
and submitted an administrative contract to  
Efficiency Maine as of 7-25-11.



Albion	Fort Kent	Scarborough
Alfred	Freeport	Skowhegan
Anson	Gorham	Solon
Arrowsic	Gray	South Berwick
Arundel	Hallowell	South Portland
Auburn	Hampden	Stockton Springs
Augusta	Harpswell	Strong
Bangor	Houlton	Thomaston
Bath	Islesboro	Thorndike
Belfast	Kennebunk	Topsham
Berwick	Lewiston	Unity
Biddeford	Lincoln	Vassalboro
Blue Hill	Lisbon	Vinalhaven
Bowdoinham	Manchester	Waldoboro
Bradley	Mechanic Falls	Waterboro
Brewer	Monmouth	Waterville
Brooksville	Naples	West Bath
Brunswick	New Gloucester	Westbrook
Bucksport	North Berwick	Windham
Cape Elizabeth	North Haven	Winslow
Caribou	Old Orchard	Winthrop
Chebeague Island	Old Town	Yarmouth
China	Orono	
Cumberland	Phippsburg	
Dayton	Portland	
Dover-Foxcroft	Presque Isle	
Eastport	Richmond	
Ellsworth	Rockland	
Fairfield	Saco	
Falmouth	Sanford	
Fayette		

If you do not see your town on the list,  
contact your municipal officials about  
passing a PACE ordinance and making  
PACE loans available locally. Efficiency  
Maine has all the materials to get  
started.

**From:** Robert Fogg <[tropical04071@yahoo.com](mailto:tropical04071@yahoo.com)>  
**To:** Don Willard <[don.willard@raymondmaine.org](mailto:don.willard@raymondmaine.org)>, "[Morse@maine.rr.com](mailto:Morse@maine.rr.com)"  
<[Morse@maine.rr.com](mailto:Morse@maine.rr.com)>  
**Sent:** Tue, Sep 27, 2011 20:27:24 GMT+00:00  
**Subject:** Fire Works in Raymond

I would like to pass on to both of you our concerns about the legalizing of fireworks. Raymond is a very wooded town and some of us would like to keep it that way. We are concerned that legalizing fireworks will make the use of them much worse than it is already. We are concerned about the use here at Raymond Pond around all of our houses and the problems that will generate for the fire dept. We of course are concerned about the safety of people too, but the way people will fire them off and the lack of caution is of great concern. We would like to suggest that this matter might be discussed with the Selectmen and perhaps Raymond will join Portland, South Portland and other communities to make them remain illegal to possess. Thanks for listening to me. I hope we are not going to have a large problem with these items next summer.

Carol & Bob Fogg  
11 Two Acre Island  
Raymond, Maine



Edward M. Friedman, D.O.  
134 Deep Cove Road  
Raymond, ME 04071

To: Town Of Raymond, ME

Att: Town Manager and Selectmen

Re: Ban on Fireworks

I am writing in support of the enactment of law(s) in the Town of Raymond, ME to make illegal the possession, sale, and use of fireworks of all and any kind within the Town of Raymond Maine and on any contiguous bodies of water.

**Health Hazard:** As an Osteopathic physician and surgeon and past colleague of John Painter, D.O., I am acutely aware of the potential injuries that result from the use of fireworks by other than trained/licensed professionals. I have past personal experience treating such injuries in my professional career. I can personally attest to the fact that these injuries can and do have life changing consequences. Just this past year, I read news reports of serious hand and eye injuries to two children in Maine resulting from fireworks.

**Fire Hazard:** It is obvious to me that the unrestrained use of fireworks possess a risk of fire especially as Raymond, ME is predominately wooded terrain with abundant understory of ignitable material. I frequently find remnants of rockets on my property, dock, and boat deck. I figure it is just a matter of time before I incur real property damage. I have confidence that our firefighting professionals could support my opinion.

**Environmental Hazard:** The combustion and explosion of fireworks results in avoidable substance pollution to air, land, water, and as well as noise pollution. The smoke from fireworks is readily observable with each explosion and surely adds to the atmospheric carbon load.

The land and water becomes littered with debris from the exploded fireworks. I find numerous pieces of plastic, paper, and colored wood washed up on my shore on a daily basis with increased concentrations following the use of fireworks.

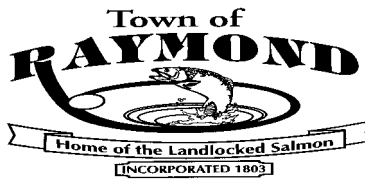
I can also surmise that there is chemical contamination to water as it is common practice to project fireworks over bodies of water. I am not aware that there has been any effort to measure such contamination, but it stands to reason that the hazard to humans and wild life from chemical contamination will increase over time with sustained and rising use of fireworks.

Many communities are responding to these and other concerns by enacting bans on fireworks. I am aware of the concern of enforcement; and I believe the State Police will stand behind us. We need to do the right thing and take the first step in a timely fashion and enact these laws.

Respectfully,

Edward M. Friedman, D.O. FACOS

**Denis Morse**  
*Chief*



**Bruce Tupper**  
*Assistant Chief*

## **FIRE/RESCUE**

*1443 Roosevelt Trail*  
Raymond, Maine 04071

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*Emergency 9-1-1*

*Chief's Office 655-1187*

*All Other Business 655-7851*

24 October, 2011

Don Willard

The following is based on findings of the research performed reference to the fireworks law concerns. I have spoken to the Chief Deputy at the Sheriffs office, other law enforcement personnel, area fire rescue departments, and code enforcement officer Chris Hansen on this topic.

We can draft and enact an Ordinance to limit or prohibit use of fireworks in town limits, however the enforcement, cost, and representation in court for violations on such an ordinance would be the responsibility of the town. The District Attorneys office will not represent Ordinance violations in court. As you know, the town could appoint constables, giving them the power to enforce such an ordinance. This would create a cost in personnel, time, initial and ongoing training, outfitting and safety gear.

We have spoken to officials in the surrounding towns regarding the issue. Towns with police departments in the metro Portland area are adopting ordinances to deal with both sales and use of fireworks. The rural towns with no police agencies are not reacting so quickly. Casco, Gray, Windham, Poland, New Gloucester, and Naples, are currently not perusing any ordinances.

In the last eight years we can not recall more than one fire caused by fireworks, and do not recall any injuries. Having said this, the lake communities are prone to ongoing illegal fireworks use (until this January when the new law takes effect). We regularly see ongoing shows on the lakes of our town as well as other towns, as a routine and have experienced little or no incidents from these shows. Given the history of the fireworks use in our region and the lack of remarkable incidents both in number and severity, and the logistics of enforcement of the issue, we recommend waiting for a year. This maybe a case of less government is better and if there are issues, then we can utilize legislation as a means to correct or limit use again via the law.

Sincerely

**Bruce D Tupper**

Assistant Chief Operations / EMA Director  
Raymond Fire & Rescue Department  
1443 Roosevelt Trail  
Raymond, Maine 04071  
[Bruce.Tupper@raymondmaine.org](mailto:Bruce.Tupper@raymondmaine.org)

NOTE:

The law states users must be 22 or older, no use of alcohol, must be on their own land or have written permission from the land owner. No hand devices like bottle rockets, sparklers are now illegal. Given these facts there is with law enforcement and our statements a method of control. Concerns are class 3 and above days and education of the public , fire safety , general safety, and how to get this info out to those using FW. Liability to enforce an ordinance if adopted.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

H.P. 71 - L.D. 83

An Act To Legalize the Sale, Possession and Use of Fireworks

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 8 MRSA §221-A, sub-§1-A** is enacted to read:

**1-A. Consumer fireworks.** "Consumer fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a 3rd-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47. "Consumer fireworks" does not include the following products:

- A. Missile-type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- C. Sky rockets and bottle rockets. For purposes of this paragraph, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

**Sec. 2. 8 MRSA §221-A, sub-§3-A** is enacted to read:

**3-A. Fire safety official.** "Fire safety official" means a state or municipal official who has authority to enforce life and fire safety laws, statutes, ordinances, rules or regulations.

**Sec. 3. 8 MRSA §221-A, sub-§4**, as amended by PL 2011, c. 202, §1, is further amended to read:

**4. Fireworks.** "Fireworks" means any:

- A. Combustible or explosive composition or substance;
- B. Combination of explosive compositions or substances;

C. Other article that was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents and other fireworks of like construction;

D. Fireworks containing any explosive or flammable compound; or

E. Tablets or other device containing any explosive substance or flammable compound.

The term "fireworks" does not include consumer fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand can not come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture, sparklers that do not contain magnesium chlorates or perchlorates or signal, antique or replica cannons if no projectile is fired.

**Sec. 4. 8 MRSA §223, sub-§1**, as amended by PL 2003, c. 452, Pt. C, §3 and affected by Pt. X, §2, is further amended to read:

**1. Sale of fireworks prohibited.** A Except for the sale of consumer fireworks under section 223-A, a person may not sell, possess with the intent to sell or offer for sale fireworks.

**Sec. 5. 8 MRSA §223-A** is enacted to read:

**§223-A. Sale of consumer fireworks**

**1. Sale of consumer fireworks.** A person may not sell consumer fireworks unless that person is 21 years of age or older and possesses:

A. A federal permit to sell fireworks under 18 United States Code, Section 843;

B. A license under subsection 3; and

C. A municipal permit if required under subsection 2.

**2. Municipalities.** The legislative body of a municipality may adopt an ordinance to prohibit or restrict the sale or use of consumer fireworks within the municipality. Municipalities that prohibit or restrict the sale or use of consumer fireworks shall provide to the Office of the State Fire Marshal a copy of the relevant restriction or prohibition within 60 days of adoption. A municipality may require that a person obtain a municipal permit for selling consumer fireworks within the municipality. A municipality that chooses to issue municipal permits under this subsection shall notify the Office of the State Fire Marshal at least 60 days prior to the initiation of its permitting program for the sale of consumer fireworks. A municipal permit may not be issued unless:

A. The applicant is 21 years of age or older;

B. The applicant applies for a permit under this subsection on a form prescribed by the commissioner;

C. The applicant possesses the federal permit required under subsection 1, paragraph A;

D. The applicant complies with the provisions of subsection 4; and

E. The application is approved by the municipality's police chief, fire chief and code enforcement officer if those positions exist.

A municipality may require a reasonable fee for a permit issued under this subsection. A person holding a permit issued by a municipality under this subsection may not sell consumer fireworks unless the person satisfies all the requirements of subsection 1.

**3. State license.** The commissioner may issue a license to sell consumer fireworks to an applicant who:

A. Is 21 years of age or older;

B. Possesses the permits required under subsection 1, paragraphs A and C;

C. Complies with the provisions of subsection 4; and

D. Has not been convicted of an offense or violated a state, federal or municipal law, rule or regulation involving fireworks or explosives within the 2 years prior to the application.

The commissioner shall charge a fee of \$5,000 for the initial license issued to an applicant and \$1,500 for each annual license renewal. The term of a license is one year. A separate license is required for each location at which an applicant seeks to sell consumer fireworks. Fees collected under this subsection must be deposited in a nonlapsing account of the Office of the State Fire Marshal to be used for the purpose of enforcing this section.

**4. Storage and handling.** A person authorized to sell consumer fireworks under subsection 1 may store and sell the fireworks only in a permanent, fixed, stand-alone building dedicated solely to the storage and sale of consumer fireworks in accordance with this subsection.

A. The building must be constructed, maintained and operated, and all consumer fireworks must be stored, in compliance with the requirements of National Fire Protection Association Standard 1124, as adopted by the Office of the State Fire Marshal, relevant building codes, zoning ordinances and other municipal ordinances.

B. The building may not be less than 60 feet from another permanent building and may not be less than 300 feet from a structure at which gasoline, propane or other flammable material is sold or dispensed.

C. Cigarettes, tobacco products or lighters or other flame-producing devices may not be permitted in the building.

D. A person under 21 years of age may not be admitted to the building unless accompanied by a parent or guardian.

E. Notwithstanding paragraph D, a person at least 18 years of age may handle and sell consumer fireworks if the person is under the direct supervision of a person 21 years of age or older.

**5. Insurance.** A person authorized to sell consumer fireworks under subsection 1 shall at all times maintain public liability and product liability insurance with minimum coverage limits of \$2,000,000 to cover the losses, damages or injuries that might ensue to persons or property as a result of the person selling consumer fireworks.

**6. Advertising.** A person may not advertise the sale of consumer fireworks in a way that is misleading about the conditions under which consumer fireworks may be purchased or used or about the requirements of this section. An advertisement for the sale of consumer fireworks must contain the words "Check with your local fire department to see if consumer fireworks are allowed in your community" in a conspicuous location and in a consistent font as approved by the commissioner.

**7. Civil liability.** A person who violates the provisions of this section is liable in a civil action for damages for bodily injury or property damage resulting from violation, and the defenses under Title 14, section 156 or a defense based on assumption of risk may not be used by the person.

**8. Restrictions on use of consumer fireworks.** The use of consumer fireworks is governed by this subsection.

A. Consumer fireworks may be used between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates they may be used between the hours of 9:00 a.m. and 12:30 a.m. the following day:

(1) July 4th;

(2) December 31st; and

(3) The weekends immediately before and after July 4th and December 31st.

B. A person may use consumer fireworks only on that person's property or on the property of a person who has consented to the use of consumer fireworks on that property.

A person who violates this subsection commits a civil violation for which a fine of not less than \$50 and not more than \$500, plus court costs, may be adjudged for any one offense.

**9. Enforcement against licensees.** The commissioner, a state law enforcement officer, a municipal law enforcement officer, a code enforcement officer or a fire safety official may petition the Superior Court or District Court to seize or remove at the expense of a licensee consumer fireworks sold, offered for sale, stored, possessed or used in violation of this section. The commissioner may immediately suspend a license granted under subsection 3 for a violation of this section. A person whose license is suspended under this subsection must receive a hearing within 10 days of the suspension under Title 5, chapter 375, subchapter 4. A person whose license is suspended under this subsection may not receive a license under subsection 3 for a period of at least one year from the date of suspension.

**10. Disclosures to customers.** A person authorized to sell consumer fireworks shall provide to the purchaser at the point of sale written guidelines describing the safe and proper use of consumer fireworks. The guidelines must also include the following statements in a conspicuous location: "MAINE LAW EXPRESSLY PROHIBITS PERSONS UNDER 21 YEARS OF AGE FROM PURCHASING, POSSESSING OR USING CONSUMER FIREWORKS" and "FURNISHING CONSUMER FIREWORKS TO PERSONS UNDER 21 YEARS OF AGE IS A CRIMINAL OFFENSE IN MAINE." Such guidelines must be published or approved by the commissioner prior to distribution.

**11. Prohibited acts.** This subsection governs prohibited acts.

A. A person may not sell consumer fireworks within the State unless that person holds a valid license or is an employee or agent of a person that holds a valid license.

B. A person licensed to sell consumer fireworks under this chapter may not sell consumer fireworks to a person under 21 years of age or who appears to be under the influence of alcohol or drugs.

C. Except as specifically allowed under subsection 4, paragraph E, a person may not knowingly:

(1) Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver consumer fireworks for or to a person under 21 years of age; or

(2) Allow a person under 21 years of age under that person's control or in a place under that person's control to possess or use consumer fireworks.

D. A person under 21 years of age may not purchase, use or possess consumer fireworks within the State or present to a person licensed to sell consumer fireworks any evidence of age that is false, fraudulent or not actually the person's own for the purpose of purchasing consumer fireworks.

It is an affirmative defense to prosecution for a violation of paragraph B or C that the licensee sold consumer fireworks to a person under 21 years of age in reasonable reliance upon fraudulent proof of age presented by the purchaser.

**12. Violations.** The following penalties apply to violations of subsection 11.

A. A person who violates subsection 11, paragraph A, B or C commits a Class D crime. If the violation involves furnishing consumer fireworks to a minor, a fine of not less than \$500 must be imposed in addition to any term of imprisonment the court may impose. If a person violates subsection 11, paragraph A, B or C after having been convicted of violating the same paragraph one or more times within the previous 6-year period, a fine of not less than \$1,000 must be imposed in addition to any term of imprisonment the court may impose.

B. A person who violates subsection 11, paragraph D commits a civil violation for which a fine of not less than \$200 and not more than \$400 must be imposed. If the person has been previously convicted of violating subsection 11, paragraph D one or more times, a fine of not less than \$300 and not more than \$600 must be imposed.

Fines collected under this subsection must be deposited in a nonlapsing account of the Office of the State Fire Marshal to be used for the purpose of enforcing this section.



**13. Annual report to the Legislature.** Beginning in 2013, the Office of the State Fire Marshal shall submit to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters a written report regarding the sale and use of consumer fireworks in this State. The report must, at a minimum, include information on the issuance and oversight of licenses to sell consumer fireworks, reported consumer fireworks-related injuries, reported consumer fireworks-related fires or other property damage and municipal restrictions or prohibitions on the sale or use of consumer fireworks. The report must be submitted not later than March 1st each year.

**Sec. 6. 8 MRSA §236,** as enacted by PL 1999, c. 671, §12, is repealed and the following enacted in its place:

**§236. Adoption of rules**

**1. Routine technical rules.** The commissioner may adopt rules concerning the sale, use, storage, transportation and display of consumer fireworks, fireworks and special effect pyrotechnics and to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**2. Major substantive rules.** After December 31, 2013, the commissioner may adopt rules governing the reporting of consumer fireworks-related injuries by health care providers. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. 7. Method for reporting data regarding consumer fireworks-related injuries.** The Office of the State Fire Marshal shall work with the statewide associations representing hospitals and physicians to develop a method for health care providers to collect and report voluntarily to the Office of the State Fire Marshal data regarding injuries related to consumer fireworks as defined in the Maine Revised Statutes, Title 8, section 221-A. This data may not include personally identifying information on persons treated, but may include information on the age of the person treated, the type and severity of the injury and, if known, the type of consumer firework involved in the injury.

**Sec. 8. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC SAFETY, DEPARTMENT OF**

**Fire Marshal - Office of 0327**

Initiative: Provides appropriations and allocations for one Public Safety Inspector II position and one Office Associate II position and related costs to inspect entities licensed to sell consumer fireworks.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
Personal Services	\$12,708	\$93,361
All Other	\$15,100	\$22,700

Capital Expenditures	\$25,000	\$0
GENERAL FUND TOTAL	<u>\$52,808</u>	<u>\$116,061</u>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2011-12</b>	<b>2012-13</b>
POSITIONS - LEGISLATIVE COUNT	2.000	2.000
Personal Services	\$50,000	\$40,000
OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$50,000</u>	<u>\$40,000</u>

**Sec. 9. Effective date.** This Act takes effect January 1, 2012.

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In House of Representatives, ..... 2011

Read twice and passed to be enacted.

..... Speaker

---

In Senate, ..... 2011

Read twice and passed to be enacted.

..... President

---

Approved ..... 2011

..... Governor

## **Town of Raymond Recall Ordinance**

Section 1. **Petition for a Recall and Notice of Intention:** Any person may at any time initiate a petition to recall an elected official of the Town by filing with the Town Clerk a Notice of Intention containing the name(s) and address(es) of the voters signing the Notice and designating the name and address of one such voter to receive notices from the Town. The affidavit must state the name of and the office held by the official sought to be recalled and must contain a statement of the reason or reasons for the proposed recall. Each voter must sign the Notice in the presence of a notary public or other person authorized to administer oaths under Maine law.

If more than one elected official is sought to be recalled, a separate affidavit must be filed regarding each. Only one official can be named on a recall petition.

Section 2. **Petition Forms:** Upon receipt of such Notice of Intent, the Town Clerk shall prepare and issue petition forms within three (3) business days to the person designated to receive notices in Section 1. The petition forms prepared by the Clerk shall comply with the requirements of state and local law. Petition forms may be circulated by any registered voter of the Town of Raymond. The forms must include:

- A) At the top of the form, the name and position of the official subject to recall, the name and contact information of the initiator of the petition and the date by which the signatures must be submitted to the municipal clerk under Section 3.
- B) Spaces for each voters signature, actual street address and printed name; and
- C) Space at the bottom of the form for the name and address of the person circulating the petition form.

The petition forms must be filed in the office of the Town Clerk during the normal business hours of the Clerk's office. In order to be accepted for filing, the petition forms must be assembled as one instrument and filed together at the same time. The Town Clerk shall make a notation on the first page of the petition of the date and time of the filing.

If there is a deadline for filing the petitions that falls on a Saturday, Sunday or a holiday on which the Town Clerk's office is closed, the deadline for filing the petition is extended to the next day during which the Town Clerk's office is open for business.

Section 3. **Collection and Submission of Signatures:** A petition form under Section 2 may be circulated or signed only by a registered voter of the Town of Raymond. A circulator of the petition form shall fill in the information required under Section, paragraph C and sign the form prior to the submission of the form to the Town Clerk. The initiator of the petition under Section 1 shall collect the petition forms from all the circulators and submit the signed petition forms to the Town Clerk within 30 days of receipt of notice from the Clerk that the petition forms were available under Section 2. The Town Clerk may not accept a petition form submitted more than 30 days after sending notice of availability to the initiator under Section 2, and any voter signatures on that form are invalid.

Section 4. **Petition Certification and Notification:** For the forms submitted within 30 days after the date the Clerk issued the petition forms, the Clerk shall review the petition pursuant to Section 2. In making those determinations, the Clerk shall apply the following criteria:

- 1. If any individual petition form fails to comply with the requirements of Section 904, that particular petition form is invalid.
- 2. If the affidavit of the circulator on any individual petition form has been altered or tampered with in any way, that particular petition form is invalid.

3. If any voter has signed more than one petition form, that voter's name shall be counted only once.

If the Clerk determines that the petition is sufficient and contains the signatures of a number of registered voters of the Town equal to at least 25% of the number of votes cast in Raymond in the last gubernatorial election, shall so certify the petition and immediately give written notice to the Board of Selectmen in writing and to the official sought to be recalled.

If the Town Clerk finds that the number of valid signatures submitted under Section 3 does not meet the requirements for a petition under Section 4, the Town Clerk shall file the petition and the petition forms in the Clerk's Office and notify the initiator of the petition that the petition is insufficient and may be amended within 5 working days (days when the Town Clerk's office is open for business) after the date of such notice by filing additional, supplementary petition forms, issued, circulated and filed in the same manner as the original petition. Upon timely receipt of supplementary petition forms, the Town Clerk shall review them in the same manner as the Clerk reviews an original petition. If the Clerk finds that the petition is still "insufficient, the Clerk shall notify, in writing, the Board of Selectmen and the Designated Petitioner of that determination. That determination by the Clerk shall not prevent the filing of a new petition for the same purpose. .

Upon receipt of notice, the official sought to be recalled may submit his or her resignation in writing to the Board of Selectmen, as applicable, in which case the position shall become vacant as of the date of the written resignation and shall be filled pursuant MRSA Title 30-A, §2602, as applicable.

Section 5. If the official sought to be recalled does not resign from the office within 10 business days of receiving the certification of petition under Section 4, the Board of Selectmen shall proceed to call and conduct a recall election to determine if the official should be recalled. Upon receipt of the certification of sufficiency and validity from the Clerk, the Board of Selectmen shall call a public hearing to be held within 30 days of the date of the Clerk's certification. Notice of the public hearing shall be given in the same fashion as notice of proposed ordinances

The election must be held no less than 45 days nor more than 75 days after certification of the petition under Section 4 unless a regular municipal election is scheduled within 90 days of the certification of petition, in which case the recall election must be held on the date of the regular municipal election. If the Board of Selectmen fail to schedule a recall election within 10 days of the certification of petition, the Town Clerk shall schedule the recall election pursuant to the date requirements of this section.

Section 6. **Ballots for Recall Election:** The ballot question for a recall election shall be substantially as follows:

"Do you authorize the recall of [name of elected official] from the position of [name of position]?"  
( ) Yes ( ) No"

Section 7. **Results of Recall Election:** Within 2 business days of the recall election under Section 5, the Town Clerk shall certify and record the election results and notify the Board of Selectmen of those results. If a majority of the voters voting in the recall election vote in the affirmative, the official shall be recalled, effective the date of the results, provided that the total number of votes cast for and against the question exceeds a number of registered voters of the Town equal to at least 30% of the number of votes cast in Raymond in the last gubernatorial election.

Section 8. An official sought to be recalled and who has not resigned under Section 4 shall continue to perform the duties of the office until the Board of Selectmen certifies the results of the recall election. If the official is recalled, the office shall become vacant immediately upon certification of the results of the election and shall be filled in accordance ~~with Section 9. MRSA Title 30-A, §2602, or any Appointment Ordinance, as applicable.~~

Section 9. Filling Vacancies: After the results have been certified by the Board of Selectmen, the Clerk must prepare and call a special election within 30-45 days of that certification if there is not already a regularly scheduled election within 90 days of certification.

## 30-A §2505. RECALL OF MUNICIPAL OFFICIALS

### 30-A §2505. RECALL OF MUNICIPAL OFFICIALS

Except as otherwise provided by the municipality's ordinances or charter, an elected official of a municipality may be recalled from office pursuant to this section. For purposes of this section, "official" has the same meaning as section 2604, subsection 2. [ 2011, c. 324, §1 (NEW) . ]

**1. Petition for recall.** On the written petition pursuant to subsection 5 of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election, an election must be held to determine the recall of an elected official of that municipality.

[ 2011, c. 324, §1 (NEW) . ]

**2. Notice of intention.** In order to initiate a recall election under subsection 1, the initiator of the petition shall file a notice of intention of recall with the municipal clerk of the municipality. A notice of intention of recall under this subsection must include the name, address and contact information of the person filing the notice and the name and position of the official subject to recall under this section. Only a person registered to vote in the municipality may file a notice of intention of recall under this subsection.

[ 2011, c. 324, §1 (NEW) . ]

**3. Petition forms.** Within 3 business days of receipt of a notice of intention of recall under subsection 2, the municipal clerk shall prepare petition forms for the collection of signatures under subsection 4 and send notice to the initiator of the petition under subsection 2 that the petition forms are available. The municipality may charge the initiator of the petition a reasonable fee for preparing and providing the petition forms under this subsection. A petition form under this subsection must include:

A. At the top of the form, the name and position of the official subject to recall, the name and contact information of the initiator of the petition and the date by which the signatures must be submitted to the municipal clerk under subsection 4; [ 2011, c. 324, §1 (NEW) . ]

B. Spaces for each voter's signature, actual street address and printed name; and [ 2011, c. 324, §1 (NEW) . ]

C. Space at the bottom of the form for the name, address and signature of the person circulating the petition form. [ 2011, c. 324, §1 (NEW) . ]

[ 2011, c. 324, §1 (NEW) . ]

**4. Collection and submission of signatures.** A petition form under subsection 3 may be circulated or signed only by a registered voter of the municipality. A circulator of a petition form shall fill in the information required under subsection 3, paragraph C and sign the form prior to submission of the form to the municipal clerk. The initiator of the petition under subsection 2 shall collect the petition forms from all circulators and submit the signed petition forms to the municipal clerk within 14 days of receipt of notice from the clerk that the petition forms are available under subsection 3. A municipal clerk may not accept a petition form submitted more than 14 days after sending notice of availability to the initiator under subsection 3, and any voter signatures on that form are invalid.

[ 2011, c. 324, §1 (NEW) . ]

**5. Petition certification and notification.** Within 7 business days of receiving petition forms under subsection 4, the municipal clerk shall determine whether the petition forms meet the criteria under subsection 4 and certify the validity of any signatures on the petition forms. If the municipal clerk finds that the number of valid signatures submitted under subsection 4 meets or exceeds the requirements under subsection 1, the clerk shall certify the petition and immediately send notification of the certification to the municipal officers, the initiator of the petition and the official subject to the recall. If the municipal clerk finds the number of

valid signatures submitted under subsection 4 does not meet the requirements for a petition under subsection 1, the municipal clerk shall file the petition and the petition forms in the clerk's office and notify the initiator of the petition.

[ 2011, c. 324, §1 (NEW) .]

**6. Scheduling recall election.** Within 10 business days of certification of the petition under subsection 5, the municipal officers shall schedule a recall election to determine whether the official subject to the recall petition should be recalled. The election must be held no less than 45 days nor more than 75 days after certification of the petition under subsection 5 unless a regular municipal election is scheduled to be held within 90 days of the certification of the petition under subsection 5, in which case the recall election must be held on the date of the regular municipal election. If the municipal officers fail to schedule a recall election within 10 days of certification of the recall petition under subsection 5, the municipal clerk shall schedule the recall election pursuant to the date requirements of this subsection.

[ 2011, c. 324, §1 (NEW) .]

**7. Ballots for recall election.** If the official subject to the recall does not resign from office within 10 business days of certification of the recall petition under subsection 5, the ballots for the recall election under subsection 6 must be printed. A ballot for a recall election under this section must read:

"Do you authorize the recall of (name of official) from the position of (name of office)?  
( ) Yes ( ) No"

[ 2011, c. 324, §1 (NEW) .]

**8. Results of recall election.** Within 2 business days of a recall election under subsection 6, the municipal clerk shall certify and record the election results and notify the municipal officers of those results. If a majority of voters vote to remove the official, the recall takes effect on the date the election results are recorded pursuant to this subsection.

[ 2011, c. 324, §1 (NEW) .]

**9. Limitation of recall.** An elected official may be the subject of a recall petition under this section only if the official is convicted of a crime, the conduct of which occurred during the official's term of office and the victim of which is the municipality.

[ 2011, c. 324, §1 (NEW) .]

#### SECTION HISTORY

2011, c. 324, §1 (NEW) .

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## **Town of Raymond**

### **Appointment of Elected Official to Fill Vacancy**

#### **Section 1. Vacancies:**

The Town of Raymond office of an elected official shall be deemed vacant under one or more of the following conditions.

If the Town Official:

- A) Nonacceptance;
- B) Resignation;
- C) Death;
- D) Removal from the municipality;
- E) Permanent disability or incompetency;
- F) Failure to qualify for the office within 10 days after written demand by the municipal officers;  
or
- G) Failure of the municipality to elect a person to office.

#### **Section 2. Notification**

If the Town Clerk believes one or more of the above criteria are met, the Clerk shall in writing inform the Board of Selectmen and notify the affected elected official (unless deceased). A vacancy shall be declared if the Board of Selectmen determines by a majority vote of the members present that one or more of the above criteria are met.

#### **Section 3. Appointment**

Following solicitation of interested candidates, vacancies in the office, except for vacancies in the school board, shall be filled by the Board of Selectmen through appointment of a registered voter residing in the Town of Raymond and is at least 18 years of age. The Board of Selectmen shall confirm the appointment by a majority vote of the members present. The appointed official shall serve until the regularly scheduled Town election and a successor is elected and sworn. Said successor shall serve the balance of the term.



**1. When vacancy exists.** A vacancy in a municipal office may occur by the following means:

- A. Nonacceptance;
- B. Resignation;
- C. Death;
- D. Removal from the municipality;
- E. Permanent disability or incompetency;
- F. Failure to qualify for the office within 10 days after written demand by the municipal officers; or
- G. Failure of the municipality to elect a person to office.

**2. Vacancy in office other than selectman or school committee.** When there is a vacancy in a town office other than that of selectman or school committee, the selectmen may appoint a qualified person to fill the vacancy.

**3. Vacancy in office of selectman.** When there is a vacancy in the office of selectman, the selectmen may call a town meeting to elect a qualified person to fill the vacancy.

**4. Vacancy in school committee.** A vacancy in a municipality's school committee shall be filled as provided in Title 20-A, section 2305, subsection 4.

**5. Person appointed qualifies.** The person appointed to fill a vacant office must qualify in the same manner as one chosen in the regular course of municipal activity.

**6. Home rule authority.** Under its home rule authority, a municipality may apply different provisions governing the existence of vacancies in municipal offices and the method of filling those vacancies as follows:

- A. Any change in the provisions of this section relating to a school committee must be accomplished by charter; and
- B. Any change in the provisions of this section relating to any other municipal office may be accomplished by charter or ordinance.

**7. Authority to act.** Words in any statute, charter or ordinance giving authority to 3 or more persons authorize a majority to act when the statute, charter or ordinance does not otherwise specify. Notwithstanding any law to the contrary, a vacancy on an elected or appointed municipal or quasi-municipal body does not in itself impair the authority of the remaining members to act unless a statute, charter or ordinance expressly prohibits the municipal or quasi-municipal body from acting during the period of any vacancy and does not in itself affect the validity of any action no matter when taken.

CREDIT(S)

1987, c. 737, § A, 2; [1991, c. 270, § 3, eff. June 14, 1991](#); [1993, c. 369, § 1](#); [2007, c. 396, § 3, eff. June 21, 2007](#).

## HISTORICAL AND STATUTORY NOTES

### 1996 Main Volume

### 1991 Legislation

Laws 1991, c. 270, § 3, in subsecs. 2 and 3, deleted references to assessor.

### 1993 Legislation

Laws 1993, c. 369, § 1, in subsec. 6, par. A, deleted provision making this section applicable to changes relating to municipal officers.

### Derivation:

R.S. 1954, c. 90-A, § 53; R.S. 1954, c. 91, §§ 22, 40, 41; Laws 1957, c. 405, § 1; Laws 1987, c. 583, § 18; Laws 1987, c. 737, § 1; former 30 M.R.S.A. § 2253.

### 2010 Electronic Pocket Part Update

### 2007 Legislation

Laws 2007, c. 396, § 3 added subsec. 7.

Laws 2007, c. 396, § 4 provides:

**“Sec. 4. Retroactivity.** An action, vote or adjudication of an elected or appointed body that occurred prior to the effective date of this Act, including actions, votes or adjudications that occurred prior to on April 26, 2007, is not void for the sole reason that a vacancy existed on the elected or appointed body at the time the action, vote or adjudication occurred.”


## CROSS REFERENCES

Local sealer of weights and measures, vacancy, see [10 M.R.S.A. § 2451](#).

Tax collector, bond requirement, see [36 M.R.S.A. § 755](#).

## LIBRARY REFERENCES

### 1996 Main Volume

Term of office of municipal officers; vacancies and power to fill vacancies, see [Municipal Corporations](#)  [131](#), 149(1 to 5).

Term of office of municipal officers; vacancies and power to fill vacancies, see [C.J.S. Municipal Corporations §§ 468, 474, 498](#).

## NOTES OF DECISIONS

Filling of vacancy

Tenure of person filling vacancy

Vacancies within section

. Vacancies within section

Where question arose as to legality of election of selectman and selectman signed warrant calling for a special election to fill vacancy in office of selectman and allowed his name to be put in nomination and subsequently, when he was defeated,

he tendered an express resignation, acts of selectman evidenced an intention to abandon office prior to special election, thus making his successor the legally chosen officer. [Harding ex rel. Erickson v. Brown \(1958\) Me., 153 Me. 331, 138 A.2d 635. Municipal Corporations](#) ⚡150

Where town treasurer resigned and selectmen appointed treasurer, no “vacancy” existed when petition to call special meeting was presented to selectmen and selectmen did not “unreasonably refuse” to call meeting within R.S.1930, c. 5, § 4, authorizing justice of peace to call meeting. [Googins v. Gilpatrick \(1932\) Me., 131 Me. 23, 158 A. 699. Towns](#) ⚡19

#### . Filling of vacancy

Town may secure treasurer, when vacancy exists, only in way prescribed by statute. [Googins v. Gilpatrick \(1932\) Me., 131 Me. 23, 158 A. 699. Municipal Corporations](#) ⚡129; [Towns](#) ⚡28

Election of treasurer at special meeting called by justice of peace to fill same vacancy filled by town selectmen's appointment was invalid. [Googins v. Gilpatrick \(1932\) Me., 131 Me. 23, 158 A. 699. Municipal Corporations](#) ⚡131; [Towns](#) ⚡28

The effect of P.L.1897, c. 280, was to make it mandatory for the selectmen to appoint certain officers, including fence viewers, if they were not elected by ballot at the annual town meeting; selectmen would not be authorized to act as fence viewers in any event and the office must either be filled by election at the annual town meeting or by appointment by the selectmen. [Bradford v. Hawkins \(1902\) 96 Me. 484, 52 A. 1019.](#)

Under [30 M.R.S.A. § 2253](#), [now this section] town selectmen had authority to appoint person to fill vacancy created by incumbent road commissioner's resignation from office, and person appointed to fill vacancy would hold office for remainder of incumbent's unexpired term. Op.Atty.Gen., May 13, 1980.

Board of town selectmen, presented with valid petition for special town meeting pursuant to § 2053 of this title, [now this section] for the purpose of filling vacancy left by resignation of incumbent road commissioner, could reasonably refuse to call such special town meeting, for board had already appointed person to fill vacancy in office of road commissioner and appointee held office for remainder of unexpired term of incumbent, and meeting to elect new road commissioner could accomplish no legal purpose. Op.Atty.Gen., May 13, 1980.

#### . Tenure of person filling vacancy

Town treasurer appointed by municipal officers to fill vacancy is intended by statute to serve until next annual town meeting. [Googins v. Gilpatrick \(1932\) Me., 131 Me. 23, 158 A. 699. Municipal Corporations](#) ⚡149(3); [Towns](#) ⚡28

30-A M. R. S. A. § 2602, ME ST T. 30-A § 2602

Current with emergency legislation through Chapter 86 of the 2011 First Regular Session of the 125th Legislature

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Maine Revised Statutes Annotated [Currentness](#)

Title 30-A. Municipalities and Counties [\(Refs & Annos\)](#)

Part 2. Municipalities

Subpart 3. Municipal Affairs

☞ [Chapter 121](#). Meetings and Elections

☞ [Subchapter 2](#). Town Meetings and Elections [\(Refs & Annos\)](#)

→ **§ 2526. Choice and qualifications of town officials**

Unless otherwise provided by charter, the following provisions apply to the choice and qualifications of town officials.

**1. Manner of election.** In a town with a population greater than 4,000, according to the last Federal Decennial Census, election shall be by plurality. Except as provided in section 2528, subsection 10, in a town with a population of 4,000 or under, election shall be by majority.

**2. Appointment in writing.** The appointment of any town official or deputy must be in writing and shall be signed by the appointing party.

**3. Qualifications.** In order to hold a municipal office, a person must be a resident of the State, at least 18 years of age and a citizen of the United States.

**A. [\[FN1\]](#)** In order to hold the office of selectman, a person must be a voter in the town in which that person is elected.

**4. Selectmen and overseers.** The following provisions apply to selectmen and overseers.

**A.** A town may determine at a meeting held at least 90 days before the annual meeting whether 3, 5 or 7 will be elected to each board and their terms of office.

**(1)** Once the determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

**(2)** If a town fails to fix the number, 3 shall be elected. If a town fails to fix the term, it is for one year.

**B.** When others have not been elected, the selectmen shall serve as overseers of the poor.

**C.** A selectman may also serve as a member of the board of assessors.

**D.** A town, in electing selectmen and overseers, may designate one of them as chairman of the board.

(1) [FN2](#) If no person is designated as chairman, the board shall elect by ballot a chairman from its own membership, before assuming the duties of office. When no member receives a majority vote, the clerk shall determine the chairman by lot.

**E.** If the town fails to fix the compensation of these officials at its annual meeting, they shall be paid \$10 each per day for every day actually and necessarily employed in the service of the town.

**5. Assessors.** The following provisions apply to assessors.

**A.** A town may determine at a meeting of its legislative body held at least 90 days before the annual meeting whether a single assessor will be appointed under subparagraph (3) or a board of 3, 5 or 7 will be elected and the term of office of the assessor or assessors. In towns where the municipal legislative body is the town meeting, the determination is effective only if the total number of votes cast for and against the determination equals or exceeds 10% of the number of votes cast in the town at the last gubernatorial election.

(1) Once a determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, 3 shall be elected. If a town fails to fix the term, it is for one year.

(3) When a town has chosen a single assessor under this paragraph, the selectmen shall appoint the assessor for a term not exceeding 5 years.

**B.** In addition to the method provided by paragraph A and notwithstanding the provision of any town charter to the contrary, the municipal officers of any town, or the municipal officers of 2 or more towns acting jointly, may enact an ordinance providing for a single assessor. The municipal officers shall appoint the assessor for a term not exceeding 5 years.

(1) Seven days' notice of the meeting at which the ordinance is to be proposed shall be given in the manner provided for town meetings.

(2) In towns where the municipal legislative body is the town meeting, the ordinance is effective immediately after the next regular town meeting if enacted at least 90 days before the meeting. The ordinance stands until revoked by the municipal legislative body or the municipal officers at a meeting held at least 90 days before the annual town meeting.

**C.** When a town has not elected a full board of assessors, the selectmen shall serve as assessors as provided in Title 36, section 703. A selectman who is an assessor pursuant to this paragraph and Title 36, section 703 or any person who serves as both a selectman and a tax assessor may resign the position of assessor without resigning the office of selectman. The position of assessor must then be filled by appointment pursuant to section 2602, subsection 2. A person elected to the State Legislature who resigns the position of assessor pursuant to this paragraph may continue to serve concurrently as selectman and member of the State Legislature. If a person

who is serving in the State Legislature or in another office incompatible with the position of assessor resigns the position of assessor pursuant to this paragraph before that person has performed any duties as tax assessor, that person may not be deemed to have vacated the previously held position of State Legislator or other office that is incompatible with the office of assessor.

**D.** A town, if it elects a board of assessors, may designate one member as chairman of the board.

(1)[FN2](#) If no person is designated as chairman, the board shall elect by ballot a chairman from its own membership, before assuming the duties of office. When no member receives a majority vote, the clerk shall determine the chairman by lot.

**E.** If the town fails to fix the compensation of assessors at its annual meeting, they shall be paid \$10 each per day for every day actually and necessarily employed in the service of the town.

**F.** This subsection does not apply to any municipality which is incorporated into a primary assessing area.

**G.** Notwithstanding any other law when a vacancy occurs on an elected board of assessors, the municipal officers shall fill that vacancy as provided in section 2602, subsection 2.

**6. Board of assessment review.** The following provisions apply to a board of assessment review.

**A.** Any municipality may adopt a board of assessment review at a meeting of its legislative body held at least 90 days before the annual meeting.

**B.** The board of assessment review consists of 3 members and 2 alternates appointed by the selectmen. The municipality, when adopting such a board, may fix the compensation of the members. Initially, one member must be appointed for one year, one member for 2 years and one member for 3 years, and one of the alternates must be appointed for one year and one alternate for 2 years. Thereafter, the term of each new member or alternate is 3 years.

**C.** Any town adopting a board of assessment review may discontinue the board by vote in the same manner and under the same conditions as in adopting the board.

**D.** Municipalities may provide by ordinance for a board of assessment review consisting of 5 or 7 members and up to 3 alternates. The terms of office of members and alternates may not exceed 5 years and initial appointments must be such that the terms of office of no more than 2 members or alternates will expire in any single year.

**E.** Any town, by ordinance, may designate a board of appeals appointed under section 2691 as the board of assessment review.

**F.** A board of assessment review shall annually elect from its membership a chairman and a secretary.

**G.** The procedure of a board of assessment review is governed by section 2691, subsection 3.

**H.** This subsection does not apply to any municipality which is incorporated into a primary assessing area.

**7. Road commissioners.** The following provisions apply to road commissioners.

**A.** A town may determine at a meeting held at least 90 days before the annual meeting whether one or more road commissioners will be chosen and the term of office which may not exceed 3 years.

(1) Once the determination has been made, it stands until revoked at a meeting held at least 90 days before the annual meeting.

(2) If a town fails to fix the number, one shall be chosen. If a town fails to fix the term, it is one year.

**B.** A road commissioner appointed by the selectmen may be removed from office for cause by the selectmen.

**C.** The board of selectmen may act as a board of road commissioners.

**8. Treasurers and tax collectors.** Treasurers and tax collectors of towns may not simultaneously serve as municipal officers or as elected or appointed assessors until they have completed their duties and had a final settlement with the town.

**A.** The same person may serve as treasurer and tax collector of a municipality.

**9. Sworn in.** Before assuming the duties of office, a town official or deputy shall be sworn by the moderator in open town meeting, by the clerk, or by any other person authorized by law to administer an oath, including a notary public or dedimus justice.

**A.** Unless the oath is administered in the clerk's presence, the person who administers it shall give the official or deputy sworn a certificate, which must be returned to the clerk for filing. The certificate must state:

(1) The name of the official or deputy sworn;

(2) The official's or deputy's office;

(3) The name of the person who administered the oath; and

(4) The date when the oath was taken.

**B.** The clerk shall be sworn to accurately record the votes of town meetings and to discharge faithfully all the other duties of that office, until another clerk is elected and sworn.

**C.** After the town meeting, the clerk shall immediately issue a warrant directed to a constable containing the names of persons chosen for office who have not been sworn.

(1) The constable shall immediately summon the named persons to appear before the clerk within 7 days from the time of notice to take the oath of office.

(2) The constable shall make a return immediately to the clerk.

(3) The town shall pay the constable a reasonable compensation for these services.

**D.** The clerk shall record the election or appointment of each official or deputy, including the clerk's own, and

the other information specified in paragraph A.

**E.** A record by the clerk that a person was sworn for a stated town office is sufficient evidence that the person was legally sworn for the office. The entire oath need not be recorded.

#### CREDIT(S)

1987, c. 737, § A, 2; [1989, c. 104, §§ A, 17, D, 3, eff. May 4, 1989](#); [1991, c. 235](#); [1991, c. 270, §§ 1, 2, eff. June 14, 1991](#); [2003, c. 234, § 1](#); [2003, c. 510, §§ A-26, A-27, eff. Jan. 11, 2004](#); [2009, c. 57, § 1](#).

[\[FN1\]](#) No par. B was enacted.

[\[FN2\]](#) No subpar. (2) was enacted.

#### HISTORICAL AND STATUTORY NOTES

##### 1996 Main Volume

##### Amendments

**1989 Amendment.** Laws 1989, c. 104, § A, 17, in subsec. 9, par. A, subpar. (2), substituted reference to official or deputy's office for reference to his office.

Laws 1989, c. 104, § D, 3, in subsec. 9, added provision permitting town official or deputy to also be sworn by notary public or dedimus justice; and in subpar. A(2), effected same change as was made by Laws 1989, c. 104, § A, 17.

**1991 Amendments.** Laws 1991, c. 235, in subsec. 6, par. B, added 2 alternates to the board, provided that one alternate be appointed for one year and one alternate be appointed for two years, and substituted reference to adoption of the board by the municipality, in lieu of former reference to adoption of the board by the town; and in subsec. 6, par. D, substituted provision allowing municipalities to provide for a board, in lieu of former provision allowing towns with a population of 5,000 or more to provide for a board, and added 3 alternates to the board.

Laws 1991, c. 270, § 1, in subsec. 5, par. C, allowed a selectman who is an assessor to resign the position of assessor without resigning the office of selectman, and provided that the position of assessor must then be filled by appointment.

Laws 1991, c. 270, § 2, added subsec. 5, par. G.

##### Derivation:

R.S.1954, c. 90-A, § 36; R.S.1954, c. 91, §§ 12 to 14, 20, 22, 24, 37, 39 to 41; Laws 1957, c. 405, § 1; Laws 1963, c. 299, §§ 1 to 3; Laws 1965, c. 80; Laws 1965, c. 97; Laws 1965, c. 513, §§ 60-A, 60-B; Laws 1967, c. 14, § 1; Laws 1967, c. 47; Laws 1967, c. 72, § 1; Laws 1969, c. 114, §§ 1 to 3; Laws 1969, c. 433, § 76; Laws 1969, c. 438, § 4; Laws 1971, c. 598, § 66; Laws 1973, c. 536, §§ 10, 11; Laws 1973, c. 620, § 2; Laws 1973, c. 695, § 1; Laws 1975, c. 545, § 1; Laws 1983, c. 58; Laws 1987, c. 582, § A, 15 to 19; Laws 1987, c. 583, § 11; Laws 1987, c. 737, § A, 1; former 30 M.R.S.A. § 2060.



## 2010 Electronic Pocket Part Update

### 2003 Legislation

Laws 2003, c. 234, § 1, in subsec. 5, par. C, in the second sentence, inserted “or any person who serves as both a selectman and a tax assessor”, and added the fourth and fifth sentences.

Laws 2003, c. 510, § A-26, in subsec. 6, par. G, inserted “review” following “assessment”.

Laws 2003, c. 510, § A-27, in subsec. 9, rewrote par. A, which prior thereto read:

“A. Unless the oath is administered in the clerk's presence, the person who administers it shall give the official or deputy sworn a certificate which shall be returned to the clerk for filing. The certificate must state:

“(1) The name of the official or deputy sworn;

“(2) The official or deputy's office.

“(2) The official's or deputy's office.

“(3) The name of the person who administered the oath; and

“(4) The date when the oath was taken.”

Laws 2003, c. 510, was presented to the Governor by the Senate on June 14, 2003 and became law without his signature in accordance with M.R.S.A. Const. Art, IV, Pt. Third, Sec. 2. Received in the Office of the Secretary of State on January 12, 2004.

### 2009 Legislation

Laws 2009, c. 57, § 1, in subsec. 8, in the introductory paragraph, substituted “may not simultaneously serve as municipal officers or as elected or appointed assessors” for “may not be selectmen or assessors”.

## CROSS REFERENCES

### Conflicts of interest,

Maine State Housing Authority employees or commissioners, see [30-A M.R.S.A. § 4724](#).

Municipal housing authority operators and administrators, see [30-A M.R.S.A. § 4992](#).

Municipal officials generally, see [30-A M.R.S.A. § 2605](#).

Urban renewal projects, see [30-A M.R.S.A. § 5112](#).

Plantation assessors, terms of office and elections, application of this section, see [30-A M.R.S.A. § 7004](#).

Plumbing inspectors, appointment, see [30-A M.R.S.A. § 4221](#).

Registrar of voters, oath requirements, see [21-A M.R.S.A. § 101](#).


Road commissioners, see [23 M.R.S.A. § 2701 et seq.](#)

Tax collector, bond requirement, see [36 M.R.S.A. § 755](#).

Treasurer, bond requirement, see [30-A M.R.S.A. § 5601](#).

## LIBRARY REFERENCES

## 1996 Main Volume

Appointment, election, and qualification of municipal officers, see [Municipal Corporations](#)  [128 et seq.](#), [143 et seq.](#)

Appointment, election, and qualification of municipal officers, see [C.J.S. Municipal Corporations §§ 468 et seq.](#), [489 et seq.](#)

## NOTES OF DECISIONS

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[1](#). Manner of election

If the record be silent as to the mode in which town officers were elected, the presumption will be, without proof to the contrary, that they were chosen in the manner required by law. [Hathaway v. Inhabitants of Addison \(1860\) Me., 48 Me. 440.](#)

[2](#). Selectmen

Where question arose as to legality of election of selectman and selectman signed warrant calling for a special election to fill vacancy in office of selectman and allowed his name to be put in nomination and subsequently, when he

was defeated, he tendered an express resignation, acts of selectman evidenced an intention to abandon office prior to special election, thus making his successor the legally chosen officer. [Harding ex rel. Erickson v. Brown \(1958\) Me., 153 Me. 331, 138 A.2d 635. Municipal Corporations ↪ 150](#)

From the known practice of towns in this State to choose but 3 selectmen, it will be presumed that that number was chosen, unless the contrary appears. [Inhabitants of Jay v. Inhabitants of Carthage \(1860\) Me., 48 Me. 353.](#)

### [3. Overseers](#)

Towns have the discretionary power to choose any number of overseers of the poor, not exceeding 12; but, if they deem the election of separate overseers unnecessary, the duties pertaining to those officers are to be discharged by the selectmen, of whom there must be 3, 5, or 7. It was held that the election of only one overseer of the poor was valid. [Inhabitants of Lyman v. Inhabitants of Kennebunkport \(1891\) Me., 83 Me. 219, 22 A. 102.](#)

### [4. Assessors](#)



Valid appointment of tax collector is crucial to viability of his tax liens. [Hann v. Merrill \(1972\) Me., 305 A.2d 545. Taxation ↪ 2803](#)



Tax collector did not hold office de jure unless his appointment was in writing. [Hann v. Merrill \(1972\) Me., 305 A.2d 545. Taxation ↪ 2803](#)



Where contract between manager and town for year 1959 provided that manager would exercise duties of tax collector and each year thereafter until 1966 town selectmen voted to reappoint manager after discussion of renewing his contract but there was nothing in writing showing appointment as tax collector, titles based on foreclosure of tax liens placed on properties for unpaid taxes assessed in years 1961, 1962 and 1964 were invalid. [Hann v. Merrill \(1972\) Me., 305 A.2d 545. Taxation ↪ 3070](#)


A town may elect a board of 4 tax assessors, and hence assessment was not void as not made by a legal board merely because of insufficiency of evidence of the resignation of one of three original assessors, which was the purported reason for electing a fourth to fill the vacancy. [Inhabitants of Town of Warren v. Norwood \(1941\) Me., 138 Me. 180, 24 A.2d 229. Municipal Corporations ↪ 971\(2\); Towns ↪ 58](#)

By the provisions of R.S.1883, c. 3, § 12, as amended by Laws 1885, c. 335, p. 280, a collector of taxes who has not


had a final settlement with the town is ineligible to the office of selectman or assessor of taxes; and although he may have been formally elected as assessor, and may have been regularly sworn, and may have acted, he is merely an assessor de facto. [Inhabitants of Springfield v. Butterfield \(1903\) Me., 98 Me. 155, 56 A. 581. Municipal Corporations](#)  [971\(1\); Towns](#)  [58](#)


Where one assessor has not been qualified, the other 2 cannot assess a tax. [Inhabitants of Machiasport v. Small \(1885\) Me., 77 Me. 109. Officers And Public Employees](#)  [35; Taxation](#)  [2434](#)


By law, the board of assessors cannot consist of less than 3 persons, who shall be qualified by taking the oath prescribed; and where it does not appear that more than 2 were thus qualified and acted, the tax assessed by them is illegal. [Inhabitants of Williamsburg v. Lord \(1863\) Me., 51 Me. 599. Officers And Public Employees](#)  [35; Taxation](#)  [2434](#)

A town may legally choose a collector of taxes and a constable, under an article in the warrant calling the annual meeting “to choose overseers of the poor and all other town officers for the year ensuing.” [Deane v. Washburn \(1840\) Me., 17 Me. 100. Towns](#)  [20](#)


## [5. Road commissioners](#)

Notice served on road commissioner, requiring him to answer to a complaint of incompetency or neglect of official duty, is wholly inadequate. [State v. McLellan \(1918\) Me., 117 Me. 73, 102 A. 778. Highways](#)  [93](#)

Appointment of road commissioner for town, being authorized to be made by the 3 selectmen, was valid, if made by 2 of them, when all were present, in view of [§ 71\(3\) of title 1](#), providing that words giving authority to 3 or more persons authorize a majority to act. [State v. McLellan \(1918\) Me., 117 Me. 73, 102 A. 778. Highways](#)  [93](#)

R.S.1883, c. 3, § 14, provides that where towns, at their annual town meetings, do not choose highway surveyors, nor appoint the municipal officers such surveyors, the said officers shall appoint surveyors, whose term of office shall commence on the 1st day of May. It was held, that where a town, at its annual town meeting in March, does not choose any surveyors, nor appoint the selectmen such surveyors, the surveyor of the previous year holds over until the following 1st day of May. [Bunker v. Inhabitants of Gouldsboro \(1889\) Me., 81 Me. 188, 16 A. 543. Highways](#)  [93](#)

## 6. Tax collectors


Where tax collector, who had not made final settlement with town, served as assessor de jure, though disqualified by statute, tax was invalid and could not be collected by inhabitants of town, notwithstanding curative act. [Inhabitants of Otisfield v. Scribner \(1930\) Me., 129 Me. 311, 151 A. 670. Taxation](#)  [2604](#)

Collectors of taxes are public officers who are specially mentioned among those that are to be chosen at the annual town meetings in pursuance of this section. [State v. Walton \(1873\) Me., 62 Me. 106.](#)

## 7. Constables

Constables and all other town officers can only be chosen by a major vote of the votes cast at the annual town meeting and to constitute an election to such offices, it is essential that the person claiming to be chosen should be presented distinctly before the meeting; thus, the vote of the town that whoever should make the lowest bid for collecting the taxes, should be the constable, will not authorize the person making such bid to perform the duties of that office. [Crowell v. Whittier \(1855\) Me., 39 Me. 530.](#)

## 8. Fence viewers





Under the statutes of this State as they existed in 1898, the selectmen of a town were not authorized to act as fence viewers. [Bradford v. Hawkins \(1902\) Me., 96 Me. 484, 52 A. 1019. Fences](#)  [13](#)

The office of fence viewers, since P.L.1897, c. 280, must either be filled by election at the annual town meeting, or by appointment by the selectmen. [Bradford v. Hawkins \(1902\) Me., 96 Me. 484, 52 A. 1019.](#)

## 9. Field-drivers

There is no such town officer as field-driver known to, or recognized by, the laws of this State. [Varney v. Bowker \(1873\) Me., 63 Me. 154.](#)

## 10. Oath of municipal officials

1935 (P. & S.L.) c. 12, § 13 providing that all elected or appointed town officers should be sworn by the town clerk did not have the effect of changing prior general law R.S.1930, c. 15, § 19, providing that town clerk should be sworn before the moderator, hence a town assessor sworn by the clerk, who was sworn by moderator was legally in office. [Inhabitants of Town of Ashland v. Wright \(1943\) Me., 139 Me. 283, 29 A.2d 747. Municipal Corporations](#)  [144](#); [Municipal Corporations](#)  [971\(1\)](#); [Towns](#)  [28](#); [Towns](#)  [58](#)

A statute providing that all elected or appointed town officers should be sworn by the town clerk did not have the effect of changing prior general law providing that town clerk should be sworn before the moderator, hence a town assessor sworn by the clerk, who was sworn by moderator, was legally in office. [Inhabitants of Town of Ashland v. Wright \(1943\) Me., 139 Me. 283, 29 A.2d 747.](#) [Municipal Corporations](#) ⚡ 144; [Municipal Corporations](#) ⚡ 971(1); [Towns](#) ⚡ 28; [Towns](#) ⚡ 58

Where each town officer--that is 2 assessors, the treasurer, the tax collector and selectmen--was duly sworn in open town meeting faithfully to perform the duties of the office to which he had been chosen by the voters of the town, it could not be successfully contended that the oaths administered were insufficient. [Inhabitants of Brownville v. U.S. Pegwood & Shank Co. \(1924\) Me., 123 Me. 379, 123 A. 170.](#) [Municipal Corporations](#) ⚡ 144; [Towns](#) ⚡ 28

In a suit to recover a tax paid by the plaintiff, claimed to be illegally assessed because the assessors did not appear to have been sworn, parol evidence is admissible to show that the proper oath was administered, and the court has power to permit the record of the town clerk to be amended accordingly. [Whiting v. City of Ellsworth \(1893\) Me., 85 Me. 301, 27 A. 177.](#) [Evidence](#) ⚡ 417(2)

If two of the assessors of taxes take the oath of office before a person not authorized by law to administer it, the tax assessed by the board is illegal under R.S.1883, c. 3, § 24, providing that assessors may be sworn "by the town or parish clerk, or by any person authorized by law." [Orneville v. Palmer \(1887\) Me., 79 Me. 472, 10 A. 451.](#) [Officers And Public Employees](#) ⚡ 36; [Taxation](#) ⚡ 2434

In the absence of any record evidence that the officers of the town were duly sworn, the fact may be proved by parol testimony. [Hathaway v. Inhabitants of Addison \(1860\) Me., 48 Me. 440.](#) [Evidence](#) ⚡ 157(2)

The law requiring assessors to be "duly sworn," is complied with by their taking an oath "faithfully and impartially to perform the duties assigned them." [Patterson v. Creighton \(1856\) Me., 42 Me. 367.](#) [Officers And Public Employees](#) ⚡ 36; [Taxation](#) ⚡ 2434

The words "duly sworn," or "sworn according to law," when applied to any officer who is required to take and subscribe the oath prescribed in the Constitution, are to be construed to mean, that he has taken the oath as required; and when applied to any other person, that such person has taken an oath faithfully and impartially to perform the duties assigned to him in the case specified. [Bennett v. Treat \(1856\) Me., 41 Me. 226.](#) [Officers And Public Employees](#)

☞36; [Taxation](#) ☞2434

The provision requiring a record to be made of the persons sworn as town officers, is directory, and does not prevent the fact of their having been sworn from being otherwise proved, when there is no record thereof made. [Kellar v. Savage \(1840\) Me., 17 Me. 444. Municipal Corporations](#) ☞144; [Towns](#) ☞28

## 11. Compensation

Subject to applicable constitutional provision, power and authority to fix and approve salaries of municipal employees may be exercised within municipality only to extent granted by the Legislature. [Farris ex rel. Anderson v. Colley \(1950\) Me., 145 Me. 95, 73 A.2d 37. Municipal Corporations](#) ☞67(5)

Selectman's salary was authorized by town meeting vote, taken under statutory authority to "pay same as last year". [Milliken v. Gilpatrick \(1931\) Me., 130 Me. 498, 157 A. 714. Municipal Corporations](#) ☞890; [Towns](#) ☞49


That selectman was erroneously designated as clerk of board did not disqualify him for pay as full time selectman authorized by statute. [Milliken v. Gilpatrick \(1931\) Me., 130 Me. 498, 157 A. 714. Towns](#) ☞29


A road commissioner de facto may recover of the town for the labor or services of his own team employed by him in the repair of ways by the direction or consent, express or implied, of the selectmen of the town. [Willey v. Inhabitants of Windham \(1901\) Me., 95 Me. 482, 50 A. 281. Highways](#) ☞94

In the absence of any statute or vote of the town authorizing the same, a town agent cannot maintain an action against the town to recover compensation for his official services. [White v. Levant \(1887\) Me., 78 Me. 568, 7 A. 539. Municipal Corporations](#) ☞162; [Towns](#) ☞29


## 12. Removal from office--Generally


Proceedings before the selectmen for removal of road commissioner are governed by the common law, and require specification of charges, reasonable notice, impartial hearing, separate adjudication on each charge, and adjudication on the order of removal. [State v. McLellan \(1918\) Me., 117 Me. 73, 102 A. 778. Highways](#) ☞93

In proceeding for removal of road commissioner of town, the charges should be specifically stated with substantial certainty, though the technical nicety of an indictment is not required. [State v. McLellan \(1918\) Me., 117 Me. 73, 102 A. 778. Highways](#)  [93](#)


In proceedings for removal of road commissioner of town, the selectmen act as judicial officers, and should hear the evidence and pass on the facts, deliberately, without bias or prejudice, and with no preconceived opinion. [State v. McLellan \(1918\) Me., 117 Me. 73, 102 A. 778. Highways](#)  [93](#)


#### [13.](#) ---- Grounds for removal

Selectmen of the town for the year 1917 are without power to remove the road commissioner for alleged acts of misfeasance or nonfeasance during 1916. [State v. McLellan \(1918\) Me., 117 Me. 73, 102 A. 778. Highways](#)  [93](#)

Specification of charges for removal of road commissioner, accusing him of disobeying orders from selectmen on a certain date, and on another date standing bossing one man, getting his time in, and of being too extravagant during his whole term, and of using poor judgment during his whole term, are insufficient. [State v. McLellan \(1918\) Me., 117 Me. 73, 102 A. 778. Highways](#)  [93](#)


#### [14.](#) ---- Notice and hearing

Written notice of hearing on question of removing road commissioner, served only a day or part of a day prior to the hearing, merely requiring him to answer to a complaint of incompetency and neglect of official duty, was insufficient, especially where no time was allowed him after specifications were filed. [State v. McLellan \(1918\) Me., 117 Me. 73, 102 A. 778. Highways](#)  [93](#)


Though the road commissioner and his counsel were present, and the counsel cross-examined a witness, the hearing was invalid, whether the selectmen had already made their decision and refused to permit him to introduce evidence. [State v. McLellan \(1918\) Me., 117 Me. 73, 102 A. 778. Highways](#)  [93](#)

#### [15.](#) ---- Order of removal




In a proceeding for removal of a road commissioner before selectmen, the adjudication of the facts and the order of removal must be distinct acts, and the latter cannot precede, nor be coincident with, the former. [State v. McLellan \(1918\) Me., 117 Me. 73, 102 A. 778. Highways](#)  [93](#)

#### [16.](#) ---- Record

The record of the proceedings for removal of the road commissioner governs, and cannot be contradicted by parol evidence. [State v. McLellan \(1918\) Me., 117 Me. 73, 102 A. 778. Highways](#)  [93](#)


#### [17.](#) ---- Review

On information in the nature of quo warranto to review removal of road commissioner by town selectmen, the court does not act as a court of appeal on the merits, and cannot retry the facts, nor review a decision within the discretion of the selectmen, but can only determine whether the selectmen proceeded according to law. [State v. McLellan \(1918\) Me., 117 Me. 73, 102 A. 778. Highways](#)  [93](#)

#### [18.](#) Multiple office-holders

The positions of trial justice and selectman are incompatible. 1961-62 Atty.Gen.Rep. 61.

#### [19.](#) Purchase of town office

An agreement to pay a town a certain sum for an office sold at auction is invalid. [Groton v. Inhabitants of Waldoborough \(1834\) Me., 11 Me. 306, 26 Am.Dec. 530. Contracts](#)  [124](#)

30-A M. R. S. A. § 2526, ME ST T. 30-A § 2526

Current with emergency legislation through Chapter 142 of the 2011 First Regular Session of the 125th Legislature

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Maine Revised Statutes Annotated [Currentness](#)

Title 30-A. Municipalities and Counties [\(Refs & Annos\)](#)

Part 2. Municipalities

Subpart 3. Municipal Affairs

☞ [Chapter 121](#). Meetings and Elections

☞ [Subchapter 2](#). Town Meetings and Elections [\(Refs & Annos\)](#)

→ § 2528. Secret ballot

The following provisions govern a town's use of a secret ballot for the election of town officials or for municipal referendum elections. A vote by secret ballot takes precedence over a vote by any other means at the same meeting.

**1. Acceptance by town.** When any town accepts this section at a meeting held at least 90 days before the annual meeting, the provisions of this section apply to the election of all town officials required by section 2525 to be elected by ballot, except the moderator, who shall be elected as provided in section 2524, subsection 2.

**A.** The provisions of this section relating to the nomination of town officials by political caucus apply only when a town separately accepts those provisions at a meeting held at least 90 days before the annual meeting. If any town accepts those provisions, they remain effective until the town votes otherwise.

**B.** A town may accept only the provisions of subsection 4, relating to the nomination of town officials, as provided in section 2527.

**2. Designation, number and terms of officials.** At the time of acceptance, the town shall determine, by a separate article in the warrant, which other officials are to be elected according to this section, and may determine the number and terms of selectmen, assessors and overseers according to section 2526.

**A.** [\[FN1\]](#) After the determination under this subsection, a town may not change the designation, number or terms of town officials, except at a meeting held at least 90 days before the annual meeting.

**3. Voting place specified; polls.** The warrant for a town meeting for the election of officials must specify the voting place, which must be in the same building or a building nearby where the meeting is to be held. The warrant for a town meeting for the election of officials that occurs at the same time as voting in federal, state or county elections, but not at the same time as a town meeting held for other purposes, may specify the same voting places as those used by the town for federal, state or county elections. The warrant must specify the time of opening and closing the polls, which must be kept open at least 4 consecutive hours.

**A.** [\[FN1\]](#) In the warrant for a town meeting under this section, the municipal officers may designate the date of the election and designate another date within 14 days of the date set for elections as the time for considering

the other articles of business in the warrant.

**4. Nomination papers; caucuses.** The nomination for any office shall be made by nomination papers or by political caucus as provided in this subsection.

**A.** The municipal clerk shall make nomination papers available to prospective candidates during the 40 days before the filing deadline. Before issuing nomination papers, the clerk must complete each sheet by writing in the name of the candidate and the title and term of office being sought.

**(1)** Nomination papers must be signed by the following number of voters based on the population of the town according to the last Federal Decennial Census of the United States:

**(a)** Not less than 3 nor more than 10 in towns with a population of 200 or less;

**(b)** Not less than 10 nor more than 25 in towns with a population of 201 to 500; and

**(c)** Not less than 25 nor more than 100 in towns with a population of more than 500.

**(2)** Each voter who signs a nomination paper shall add the voter's residence with the street and number, if any. The voter may sign as many nomination papers for each office as the voter chooses, regardless of the number of vacancies to be filled.

**B.** At the end of the list of candidates for each office, there must be left as many blank spaces as there are vacancies to be filled in which a voter may write in the name and, if residence in the municipality is not a requirement to hold office, municipality of residence of any person for whom the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election.

**C.** Completed nomination papers or certificates of political caucus nomination must be filed with the clerk during business hours by the 45th day prior to election day. They must be accompanied by the written consent of the person proposed as a candidate agreeing:

**(1)** To accept the nomination if nominated;

**(2)** Not to withdraw; and

**(3)** If elected at the municipal election, to qualify as such municipal officer.

When these papers and certificates are filed, the clerk shall make them available to public inspection under proper protective regulations. The clerk shall keep them in the office for 6 months.

**D.** A nomination paper or a certificate of political caucus nomination that complies with this section is valid unless a written objection to it is made to the municipal officers by the 43rd day prior to election day.

**(1)** If an objection is made, the clerk shall immediately notify the candidate affected by it.

**(2)** The municipal officers shall determine objections arising in the case of nominations. Their decision is final.

**E.** Notwithstanding this subsection, when the municipal officers determine to fill a vacancy under section 2602, which must be filled by election, the municipal officers may designate a shorter time period for the availability of nomination papers, but not less than 10 days before the filing deadline, and may designate a shorter time period for the final date for filing nomination papers, but not less than the 14th day before election day. Notice of the designation shall be posted in the same place or places as town meeting warrants are posted and local representatives of the media shall be notified of the designation.

**5. Referendum questions.** By order of the municipal officers or on the written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10, the municipal officers shall have a particular article placed on the next ballot printed or shall call a special town meeting for its consideration. A petition or order under this subsection is subject to the filing provisions governing nomination papers under subsection 4.

The municipal officers shall hold a public hearing on the subject of the article at least 10 days before the day for voting on the article. At least 7 days before the date set for the hearing, the municipal officers shall give notice of the public hearing by having a copy of the proposed article, together with the time and place of hearing, posted in the same manner required for posting a warrant for a town meeting under section 2523. The municipal officers shall make a return on the original notice stating the manner of notice and the time it was given.

**A.** The requirement for public hearing is not a prerequisite to the valid issuance of any bond, note or other obligation of a municipality authorized to borrow money by vote under any such particular article.

**B.** If a particular article to be voted on by secret ballot requests an appropriation of money by the municipality, the article, when printed in the warrant and on the ballot, must be accompanied by a recommendation of the municipal officers.

**(1)** If by town meeting vote or charter provision, a budget committee has been established to review proposed town expenditures, the recommendations of the budget committee shall be printed in addition to those of the municipal officers.

**(2)** If the action affects the school budget, a recommendation by the school board shall be printed in addition to those of the municipal officers and the budget committee, if any.

**C.** If the warrant for a town meeting contains only articles for the election of the moderator and one or more referendum questions to be voted on by secret ballot, the municipal officers may specify the same voting places as those used by the town for federal, state or county elections.

**6. Ballots, specimen ballots and instruction cards.** The clerk shall prepare ballots, specimen ballots and instruction cards according to the following provisions.

**A.** The ballot shall contain the names of properly nominated candidates arranged under the proper office designation in alphabetical order by last name. It may contain no other names.

**B.** At the end of the list of candidates for each office, there must be left as many blank spaces as there are vacancies to be filled in which a voter may write in the name and, if residence in the municipality is not a requirement to hold office, municipality of residence of any person for whom the voter desires to vote. A sticker may not be used to vote for a write-in candidate in any municipal election other than a primary election.

**C.** Any question or questions required by law to be submitted to a vote shall be printed either below the list of

candidates or on a separate ballot from the ballot listing candidates. If a separate ballot is used, this ballot must be a different color than the ballot listing candidates.

**D.** A square shall be printed at the left of the name of each candidate, and 2 squares shall be printed at the left of any question submitted with “yes” above one and “no” above the other, so that a voter may designate the voter's choice clearly by a cross mark (X) or a check mark ( ).

**E.** Words of explanation such as “Vote for one” and “Vote yes or no” may be printed on the ballot.

**F.** Ballots must be uniform in size. On the ballot must appear “Official Ballot for the Town of ....,” the date of election and a facsimile of the signature of the clerk.

**G.** A sufficient number of ballots shall be printed, photocopied or otherwise mechanically reproduced and furnished, and a record of the number shall be kept by the clerk. The printed ballots shall be packaged in convenient blocks so that they may be removed separately.

**H.** Ten or more specimen ballots printed on paper of a distinctive color without the endorsement of the clerk shall be provided.

**I.** Instruction cards containing the substance of Title 21-A, sections 671 to 674, 681, 682, 692 and 693, to guide voters in obtaining and marking ballots and to inform them of penalties for improper conduct shall be printed.

**J.** The ballots and specimen ballots shall be packed in sealed packages with marks on the outside specifying the number of each enclosed.

**K.** When voting machines are used, the clerk shall prepare and furnish ballot labels that comply, as nearly as practicable, with the provisions of this section which apply to ballots.

**6-A. Candidate withdrawal; new ballots.** The following provisions govern the withdrawal of a candidate from an elective race.

**A.** A candidate may withdraw from an elective race by notifying the municipal clerk in writing of the candidate's intent to withdraw and the reason for withdrawal at least 45 days before the election. This notice must be signed by the candidate and must be notarized.

**B.** Within the 45-day period before an election, the municipal clerk may allow a candidate to withdraw from an elective race. A candidate who requests to withdraw within the 45-day period before an election shall notify the municipal clerk in writing of the candidate's intent to withdraw and the reason for withdrawal. This notice must be signed by the candidate and must be notarized.

**C.** The municipal clerk shall ensure that new ballots are produced, if necessary, to reflect the withdrawal of a candidate from an elective race.

**6-B. Inspection of ballots in an election.** Upon receipt of a package or box containing absentee ballots for an election, the municipal clerk may open the sealed package or box of ballots and verify that the ballots do not contain any errors and that the correct number of ballots has been received. The clerk may then proceed to issue absentee ballots in response to pending requests. Upon receipt of a package or box containing regular ballots for an election, the clerk may open, in the presence of one or more witnesses, the sealed package or box of ballots and verify that the ballots do not contain any errors and that the correct number of ballots has been received. Ballots to be used for test-

ing electronic tabulating devices may be removed at this time and immediately marked with the word “TEST” across the front side of the ballot in black or blue indelible ink. The clerk shall keep a record of the number of ballots used for testing purposes and seal the record with the test ballots in a container labeled “TEST BALLOTS” at the conclusion of the testing. The clerk shall then reseal the package or box of regular ballots and secure the package or box of ballots until election day, when it is delivered to the warden at the polling place.

**7. Specimen ballot posted.** At least 4 days before the election, the clerk shall have posted in one or more conspicuous, public places a specimen ballot or a list, substantially in the form of a ballot, containing the name and office designation of each candidate.

**8. Ballot clerks.** Before the polls are opened, the selectmen shall appoint the necessary number of ballot clerks as provided in Title 21-A, section 503. When there are vacancies after the polls are opened, the moderator shall appoint replacement clerks. The ballot clerks shall be sworn before assuming their duties.

**A.** On election day, before the polls are opened, the clerk shall deliver the ballots to the ballot clerks and shall post an instruction card at each voting compartment and at least 3 instruction cards and 5 specimen ballots in the voting room outside the guardrail enclosure.

**B.** The ballot clerks shall give a receipt to the clerk for the ballots received by them. The clerk shall keep the receipt in the clerk's office for 6 months.

**C.** Ballots may not be delivered to the voters until the moderator has been elected. The moderator may appoint a qualified person to act as temporary moderator during a temporary absence from the polling place.

**D.** The selectmen shall prepare a duplicate incoming voting list for the use of the ballot clerks. The law pertaining to incoming voting lists applies equally to duplicate incoming voting lists.

**9. After votes counted, ballots delivered to clerk.** After the ballot clerks have counted and tabulated the votes cast, the moderator shall deliver the ballots to the clerk who shall seal them in a suitable package and keep them in the clerk's office for 2 months.

**10. Election by plurality vote; tie vote.** Election must be by plurality vote. In the case of a tie vote, the meeting must be adjourned to a day certain, when ballots are again cast for the candidates tied for the office in question, unless all but one tied candidate withdraw from a subsequent election by delivering written notice of withdrawal signed by the candidate and notarized to the municipal offices within the 7-day period following the election. After the 7-day period has expired, the municipal officers shall call a run-off election between the remaining candidates by posting a warrant in the manner required for calling a town meeting. If only one candidate remains, that candidate is declared the winner and sworn into office.

If the meeting is adjourned sine die before a tie vote is resolved or the tie vote is discovered after the meeting adjourns sine die and more than one candidate remains, a new meeting must be called to conduct a run-off election by the method described in this subsection.

CREDIT(S)

1987, c. 737, § A, 2; [1989, c. 104](#), §§ A, 18 to 20; [1991, c. 83](#), §§ 1, 2; [1991, c. 323](#); [1993, c. 608](#), §§ 6 to 8; [1995, c. 13](#), § 1; [1995, c. 102](#), § 1; [1997, c. 733](#), § 1; [2003, c. 569](#), §§ 1, 2; [2007, c. 19](#), § 1.

[\[FN1\]](#) No par. B was enacted.

## HISTORICAL AND STATUTORY NOTES

### 1996 Main Volume

#### Amendments

**1989 Amendment.** Laws 1989, c. 104, § A, 18, in subsec. 4, par. B, provided that sticker may only be used to vote for write-in candidate in primary election.

Laws 1989, c. 104, § A, 19, in subsec. 5, made technical correction by substituting reference to manner of notice for reference to manner or notice.

Laws 1989, c. 104, § A, 20, in subsec. 6, in par. B, provided that sticker may only be used to vote for write-in candidate in primary election.

**1991 Amendments.** Laws 1991, c. 83, §§ 1, 2, in subsec. 4, par. B, and in subsec. 6, par. B, required sufficient blank spaces be provided for names and residences of write-in candidates if residence in municipality was not a requirement to hold office.

Laws 1991, c. 323, revised subsec. 10, which prior thereto read:

**“10. Election by plurality vote; tie vote.** Election shall be by plurality vote. In the case of a tie vote, the meeting shall be adjourned to a day certain, when ballots shall again be cast for the candidates tied for the office in question.”

**1993 Amendment.** Laws 1993, c. 608, § 6, in subsec. 4, par. C, among other changes, in the first par., substituted reference to the 45th day prior to election day for reference to the 35th day prior to election day; and in subsec. 4, par. D, among other changes, substituted reference to municipal officers for reference to selectmen, wherever appearing, and in the first par., substituted reference to the 43rd day prior to election for reference to the 33rd day prior to election.

Laws 1993, c. 608, § 7, rewrote subsec. 6, par. F, which prior thereto read:

**“F.** Before distribution, the ballot shall be folded in marked creases to measure, when folded, from 4 1/2 to 5 inches wide and from 6 to 13 1/2 inches long. On the back and outside, when folded, shall be printed ‘Official Ballot for the Town of ....,’ the date of election and a facsimile of the signature of the clerk.”

Laws 1993, c. 608, § 8, added subsec. 6-A.

**1995 Amendments.** Laws 1995, c. 13, § 1, in subsec. 10, deleted the provision allowing a municipal ordinance to be used to govern the procedure in a tie vote in a municipal secret ballot election and changed the exception for adjournment of the meeting to a day certain by requiring withdrawal of all but one tied candidate, in lieu of former provision allowing the exception upon withdrawal of any tied candidate.

Laws 1995, c. 102, § 1, in subsec. 4, par. A, subpar. (2), deleted provision which allowed a voter to sign only as many nomination papers for each office as there were vacancies to be filled and invalidated all others, instead provided that a voter could sign as many nomination papers for each office as the voter chose to, regardless of the number of vacancies to be filled.



## Derivation:

R.S.1954, c. 90-A, § 37; R.S.1954, c. 91, §§ 20, 49 to 63; Laws 1955, c. 26; Laws 1957, c. 178; Laws 1957, c. 286; Laws 1957, c. 405, §§ 1, 23, 27; Laws 1957, c. 429, § 79; Laws 1959, c. 2; Laws 1959, c. 109, §§ 1 to 3; Laws 1961, c. 309; Laws 1961, c. 360, §§ 7 to 9; Laws 1963, c. 131; Laws 1969, c. 114, §§ 4 to 6; Laws 1971, c. 265, § 1; Laws 1973, c. 352; Laws 1973, c. 408, §§ 1, 2; Laws 1973, c. 788, § 136-A; Laws 1975, c. 730, § 2; Laws 1975, c. 761, §§ 62, 63; Laws 1977, c. 78, § 173; Laws 1977, c. 479, § 11; Laws 1977, c. 696, § 223; Laws 1979, c. 150, §§ 1, 2; Laws 1979, c. 663, §§ 193, 194; Laws 1981, c. 86, §§ 1, 2; Laws 1983, c. 224; Laws 1985, c. 30; Laws 1985, c. 161, § 8; Laws 1987, c. 582, §§ A, 20 to 24, B, 1; Laws 1987, c. 737, § A, 1; former 30 M.R.S.A. § 2061.

## 2010 Electronic Pocket Part Update

## 1997 Legislation

Laws 1997, c. 733, § 1, in subsec. 10, added the second par.

## 2003 Legislation

Laws 2003, c. 569, § 1, in subsec. 3, rewrote the introductory paragraph, which prior thereto read:

**“3. Voting place specified; polls.** The warrant for a town meeting for the election of officials shall specify the voting place, which must be in the same building or a building nearby where the meeting is to be held. It shall specify the time of opening and closing the polls, which must be kept open at least 4 consecutive hours.”

Laws 2003, c. 569, § 2, in subsec. 5, added par. C.

## 2007 Legislation

Laws 2007, c. 19, § 1 inserted subsec. 6-B.

## CROSS REFERENCES

Alternative nomination procedure, see [30-A M.R.S.A. § 2527](#).  
 Petitions for nominations of directors of regional school units, see [20-A M.R.S.A. § 1473](#).  
 Regional school unit referendum voting, see [20-A M.R.S.A. § 1503](#).  
 Secret ballot requirements,  
     City warden and clerks, election, see [30-A M.R.S.A. § 2552](#).  
     County charter revisions, see [30-A M.R.S.A. § 1324](#).  
     Enactment of ordinances, see [30-A M.R.S.A. § 3002](#).  
     Interstate school districts, authorization, see [20-A M.R.S.A. § 3643](#).  
     Municipal caucuses, see [21-A M.R.S.A. § 313](#).  
     School administrative district financing elections, see [20-A M.R.S.A. § 1304](#).  
 Voting conducted in accordance with this section,  
     Closing of school building, see [20-A M.R.S.A. § 4102](#).  
     Local liquor option elections, see [28-A M.R.S.A. § 121](#).  
 Municipal electric districts,  
     Formation of multi-member district, see [35-A M.R.S.A. § 3904](#).  
     Formation of single-member districts, see [35-A M.R.S.A. § 3903](#).

School administrative district, referendum, see [20-A M.R.S.A. § 1353](#).  
School budgets, see [20-A M.R.S.A. § 15617](#).  
School committee member elections, see [20-A M.R.S.A. § 2303](#).  
School construction, see [20-A M.R.S.A. § 15904](#).  
School director elections, see [20-A M.R.S.A. § 1253](#).  
Union school, dissolution elections, see [20-A M.R.S.A. § 2103](#).


## NOTES OF DECISIONS


Discretion of officers, referendum questions [3](#)  
Form and content of ballots [4](#)  
Officials selected by secret ballot [1](#)  
    Referendum questions - Generally [2](#)  
    Referendum questions - Discretion of officers [3](#)  
Write-in votes [5](#)



### [1](#). Officials selected by secret ballot

School directors were elective officials, not appointive, therefore, it was not necessary to hold a meeting to designate them as officials to be elected by secret ballot, since they were covered by the provisions of R.S.1954, c. 90-A. 1959-60 Atty.Gen.Rep. 92.

### [2](#). Referendum questions--Generally


In context of requirement that municipal officers faced with referenda question either place the initiated question on the next ballot printed or call special town meeting for its consideration, “next ballot printed” means the next municipal ballot. [Sweetall v. Town of Blue Hill \(1995\) Me., 661 A.2d 159. Towns](#)  [15](#)


Statute governing how town votes on municipal referenda elections contains no “competing measures” requirement that town's warrant concerning particular issue be voted on at the same time as the competing referendum questions concerning the same subject matter. [Sweetall v. Town of Blue Hill \(1995\) Me., 661 A.2d 159. Towns](#)  [15](#)

Where underlying purpose of City Council and the voters was to establish initiative and referendum, that purpose should not be defeated by inclusion of an invalid provision relating to machinery or its exercise. [LaFleur ex rel. Anderson v. Frost \(1951\) Me., 146 Me. 270, 80 A.2d 407. Municipal Corporations](#)  [111\(4\)](#); [Statutes](#)  [64\(2\)](#)

Under provisions of [30 M.R.S.A. § 2061](#), relating to referendum questions in town meetings or elections, municipal officers have option of placing particular article on next ballot printed or of calling special town meeting, and are not controlled by specific request stated in petition for one or other of these methods of considering referred question. Op.Atty.Gen., Feb. 29, 1980.

### 3. ---- Discretion of officers

In conducting municipal referenda elections, municipal officers have discretion as to whether to place initiated question on printed ballot or to deal with it at special town meeting. [Sweetall v. Town of Blue Hill \(1995\) Me., 661 A.2d 159. Towns](#)  [15](#)

Town selectmen acted within their discretion in declining to request that referendum questions be placed on the state ballot. [Sweetall v. Town of Blue Hill \(1995\) Me., 661 A.2d 159. Towns](#)  [15](#)

### 4. Form and content of ballots

Stickers with the person's name printed on them are valid for use in municipal elections. Op.Atty.Gen., May 18, 1981.

Under provisions of [30 M.R.S.A. § 2061](#), relating to secret ballots in town meetings, where town has established budget committee, in accordance with town meeting vote or charter provision, only recommendations of budget committee, and not those of municipal officers, should accompany requested article as printed in warrant and ballot. Op.Atty.Gen., June 6, 1980.

### 5. Write-in votes

Provisions of Title 21 (§§ 701, 702, 921, 922, 925) requiring a write-in vote to include the candidate's municipality of residence do not apply to town elections, given ambiguous nature of this section, relating to town election ballots and given important interest of protecting individual's right to vote for person of his choice. Op.Atty.Gen., April 22, 1981.

30-A M. R. S. A. § 2528, ME ST T. 30-A § 2528

Current with emergency legislation through Chapter 142 of the 2011 First Regular Session of the 125th Legislature

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END OF DOCUMENT

## 30-A §3014. ORDINANCES REGARDING RESIDENCY RESTRICTIONS FOR SEX OFFENDERS

### 30-A §3014. ORDINANCES REGARDING RESIDENCY RESTRICTIONS FOR SEX OFFENDERS

(REALLOCATED FROM TITLE 30-A, SECTION 3013)

**1. Application and scope.** The State intends to occupy and preempt the entire field of legislation concerning the regulation of persons convicted of a sex offense in this State or in another jurisdiction. Except as provided in this section, a municipality may not adopt or enforce any ordinance or bylaw addressing persons who have been convicted of a sex offense in this State or in another jurisdiction that would impose on them restrictions or requirements not imposed on other persons who have not been convicted of a sex offense in this State or in another jurisdiction. As used in this section, "convicted of a sex offense in this State or in another jurisdiction" means a conviction for any current or former Maine crime listed in former Title 17, sections 2922 to 2924 or Title 17-A, chapter 11 or 12 or Title 17-A, section 556; a conviction for an attempt or solicitation of those listed crimes; or any conviction for any former or current crime in any other jurisdiction in which the person engaged in substantially similar conduct to that of the earlier specified current or former Maine crimes.

[ 2009, c. 1, §21 (RAL) . ]

**2. Residency restriction ordinance.** A municipality may adopt an ordinance regarding residency restrictions for persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense. Any such ordinance is limited as follows.

A. An ordinance may restrict only residence. It may not impose additional restrictions or requirements, including, but not limited to, registration and fees. [ 2009, c. 1, §21 (RAL) . ]

B. A municipality may prohibit residence by a sex offender up to a maximum distance of 750 feet surrounding the real property comprising a public or private elementary, middle or secondary school or up to a maximum distance of 750 feet surrounding the real property comprising a municipally owned property where children are the primary users. [ 2009, c. 1, §21 (RAL) . ]

C. An ordinance may not restrict the residence of a person who lived in an area restricted pursuant to paragraph B prior to the adoption or amendment of the ordinance. [ 2009, c. 1, §21 (RAL) . ]

D. An ordinance may not be premised on a person's obligation to register pursuant to Title 34-A, chapter 15. [ 2009, c. 1, §21 (RAL) . ]

[ 2009, c. 1, §21 (RAL) . ]

#### SECTION HISTORY

RR 2009, c. 1, §21 (RAL) .

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Good Afternoon Don,

I have reviewed the existing law regarding Residency Restrictions of Sex Offenders (30-A section 3014). I also spoke with Theresa Sadak to see what her thoughts are regarding changes to the existing law, so that Private Day Care facilities would be as protected as possible. Although I would like to explore the possibility of the County Commissioners developing an ordinance, we might get caught up in "the process" since the county has not developed ordinances in the past. I fear that developing "a process" might possibly delay solving the problem.

I advised Theresa that I would rather spend my efforts on working with some local legislators to sponsor a bill that would strengthen and clarify the existing law to make the residency restrictions a part of state law and do away with the local ordinance issues. That way, any law enforcement agency could enforce the residency restrictions.

Theresa could tolerate the existing 750 ft. maximum distance, but would like more if possible. The bigger problem will be coming up with a process that would mandate that sex offenders check with the local town office or a state website to make sure that the residence that they were purchasing, was not within the residency restriction of a day care. This would eliminate a registered sex offender using the affirmative defense that he/she didn't know that the residence that they purchased was within 750 ft of a day care center. We'd have to determine what constitutes a day care, a registered or licensed day care vs. someone who baby sits for several young kids?

I'm thinking of approaching Senator Bill Diamond, Representative Gary Plummer and/or Representative Mark Dion to see if they would be willing to work with us on this issue. Hopefully, this gives you a direction?

Take care,

--

Kevin Joyce

Sheriff

Sheriff's Office Law Enforcement

Cumberland County

774-1444

Sent from Bill Whitten 12/01/11 at 12:00pm

Good news on this issue- I was reviewing the bills passed by Legislative Council for action in the coming session and one, LR 2470, by Senator Bill Diamond " An Act To Rescue Children Who Are Being Sexually Abused and To Make Improvements to the Sex Offender Registry and the Computer Crimes Unit". was passed.

Although this may or may not be exactly what you are looking for, it gives us a beginning. Also, with cloture for bills having been in September and the Council determining all bills in November, a new option would likely have been out, but now we can "tweek" this one, assuming Senator Diamond agrees, to include your needs. I will continue to follow this and talk with the Sheriff and Don.

Bill

### Tax Acquired Properties Summary

Account #	Previous Owner	Address	Acreage	Map /Lot	Taxes owed through 12/06/11 (Includes Lien costs)	Assessed Value	Other information	Staff Notes
C0280R	E. Cary	0 Haskell Ave	1.75	030/016	\$7,138.43	\$83,100.00	Most of lot in Resource Protection Zone	Has Access to Crescent Lake. May be worthy of consideration for possible Town Retention. Has building impediments but possible parking developments.
C0310R	L. Cary	0 Bond	0.33	031/002	\$4,494.90	\$51,600.00	*See Note	Possible building lots w/ access to Crescent Lake. Recommend for sale.
C0250R	E. Cary	0 Bond	0.71	031/003	\$2,978.49	\$58,100.00		
C0260R	E. Cary	0 Haskell	1.00	030/003	\$3,419.72	\$67,100.00		Has access to Crescent Lake. Buildable lot. Rcommend for sale
H0485R	Hamm	0 Boulder	0.12	041/050	\$3,509.64	\$27,000.00	Has right of way to Panther Pond, unbuildable lot	Has a 50' right-of-way off Chickadee Lane to Panther Pond. Likely sale to abutters because of expressed interest but small unbuildable lot.

\*Note: These two lots will be combined per Shoreland Zoning Ordinance Section 12.E.2, because they are two nonconforming, contiguous lots with the same owner (Town of Raymond).

#### **Haskell Ave and Bond St**

There are four properties listed to either Elizabeth or Louis Heirs Carey. The address for all three is the same, a P.O. Box in Rangely, which is a business listed for David Carey. This past spring, they made a \$20,000 payment that paid off all the taxes for the parcel with the building on it and made a payment arrangement for the remaining (approximately \$10,000) to have it paid off by March, but no payments were ever made and now the taxes due in April are delinquent.

#### **Boulder Road**

This property is listed under Joan Hamm at 190 Spring St in Westbrook. The last payment received was for the 2004/2005 fiscal year. She has never accepted any of the certified mailings and it is Sue's belief that she is just not interested in the property because there is only .12 acres. Certified mail returned as unclaimed. We have recently learned that they have been using the property because of the water access and have been trashing the right-of-way. We have several parties interested in purchasing this property.

#### **Dates:**

May 10, 2011: Motion made to send demand letters in Accordance with TAP policy. Sue Carr sent out 30 Day Demand Letter sent out with notice of intent to sell

June 21, 2011: Legally drafted letter of interest sent out



## **TAX ACQUIRED PROPERTY POLICY**

Adopted by the Board of Selectmen - May 18, 1995

Amended - August 3, 1999

Amended – March 9, 2010

1. The purpose of this policy is to provide guidance regarding properties acquired by the Town for non-payment of taxes.
2. If the former owner, after the property has achieved tax acquired status, requests a reasonable payment schedule that will provide for the repayment of all outstanding taxes, the Tax Collector will allow a payment schedule for up to 60 months from the date of automatic foreclosure. (a) If the payment schedule, as established by the Tax Collector, is not acceptable to the taxpayer, appeal may be made to the Board of Selectmen.
3. If the Taxpayer becomes more than 90 days delinquent in meeting the payment schedule as established, or is not current as of June 30th of any given year, the account will be referred to the Board of Selectmen for redemption and/or sale.
4. If the Selectmen determine that a property should not be retained under Section 5 and that the taxpayer is delinquent under Section 3, the Taxpayer or other party in interest will be offered the right of immediate redemption by paying all outstanding taxes, interest and costs within 30 days of receiving notice.
5. Retention of Property: The Selectmen shall retain property for the benefit of the Town, if they deem it in the best interest of the town to do so. By way of example, but not of limitation, the Selectmen might deem it in the best interest of the town to retain property where: (a) The property has or will have recreational value or economic value to the Town, (b) The property has or will have potential for a public facility or additions to public facilities, (c) Retention of the property will provide a residence for an individual or individuals who otherwise will require public assistance from the Town.
6. Sale: If a property is not retained by the Selectmen under Section 5, and if the property is not redeemed under Section 4, the property shall be sold by sealed bid or any other method approved by the Selectmen which maximizes the return to the Town. The Selectmen shall reserve the right to accept or reject bids in any bid process. A notice of intent to sell the property shall be published in the newspaper; shall be posted in those areas where warrants are posted; and shall be sent to the Taxpayer or Taxpayers who lost the property by certified mail, return receipt requested to their last known address.



APPROVAL SIGNATURES (for Amendment)

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Chairman of Selectboard

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Date

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Selectman

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Date

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Selectman

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Date

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Selectman

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Date

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Selectman

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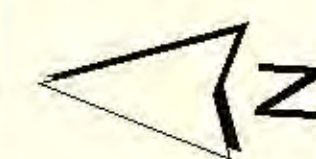
Date



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**TOWN OF RAYMOND**  
**Cumberland County, Maine**  
**Property Map**



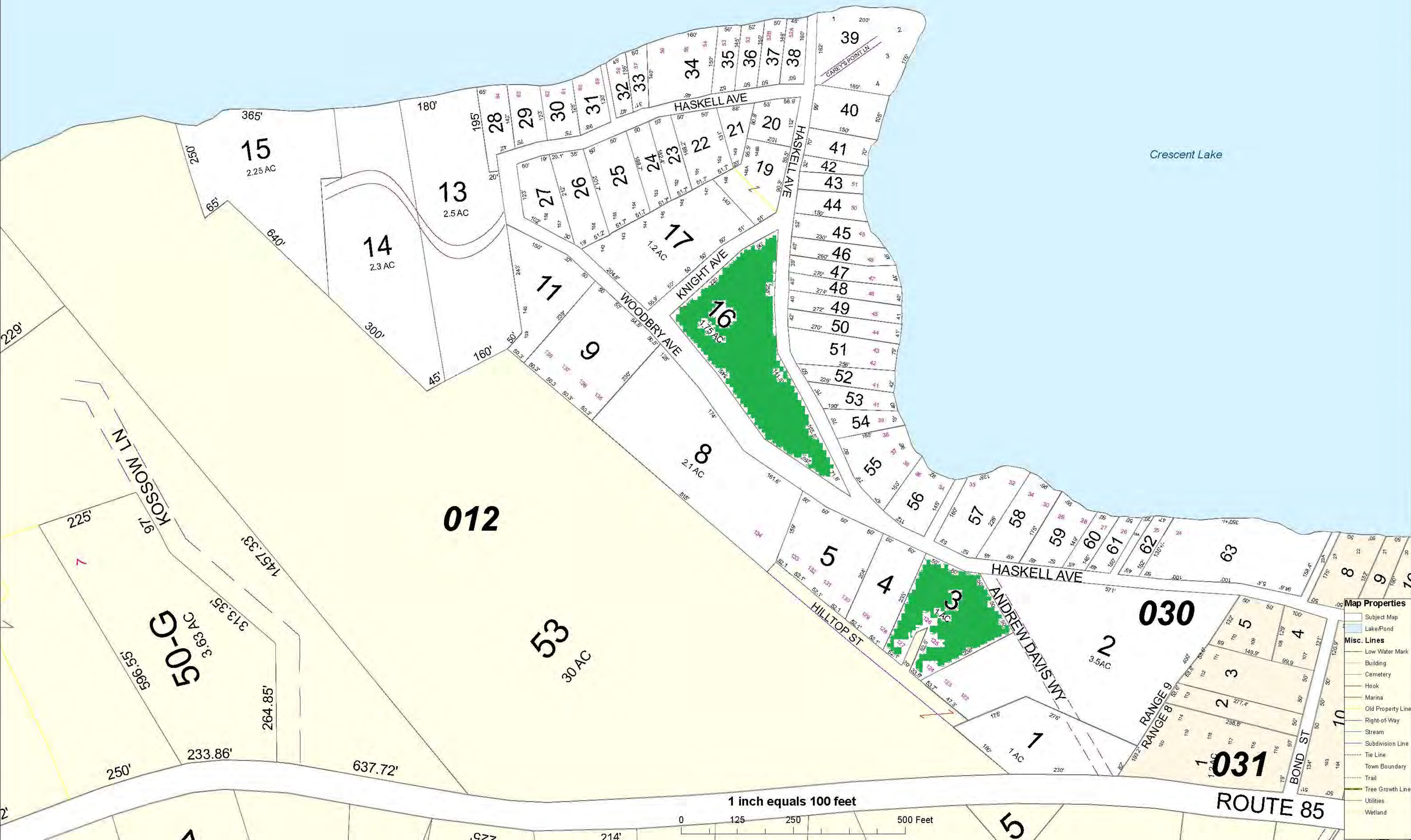
Sources:  
Raymond Assessors' Database  
Maine Office of GIS

Prepared by:  
Town of Windham GIS Department  
Elisa Trepanier, GIS Technician

Effective Date: April 1, 2011



### Map 30



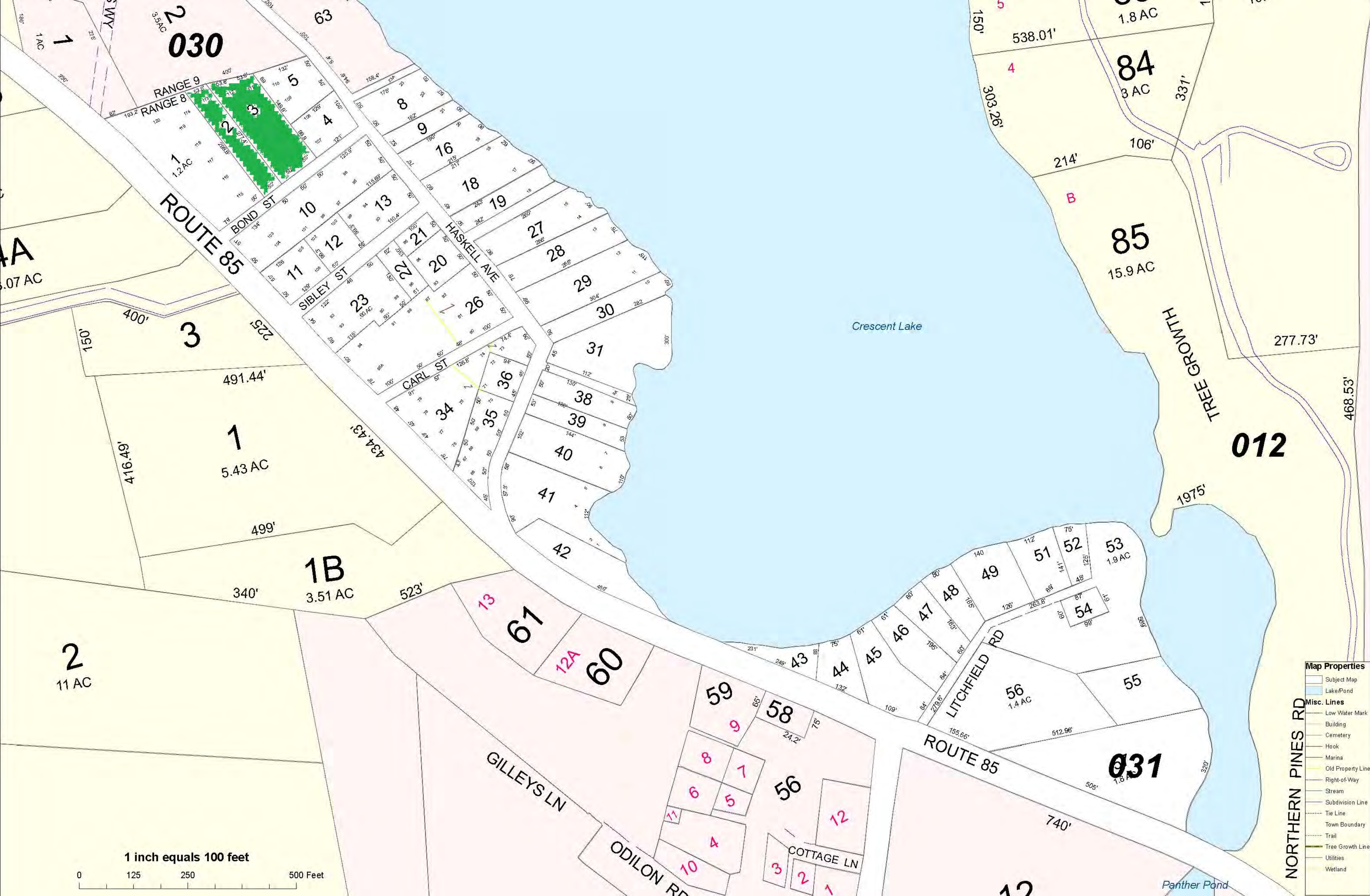


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**TOWN OF RAYMOND**  
**Cumberland County, Maine**  
**Property Map**

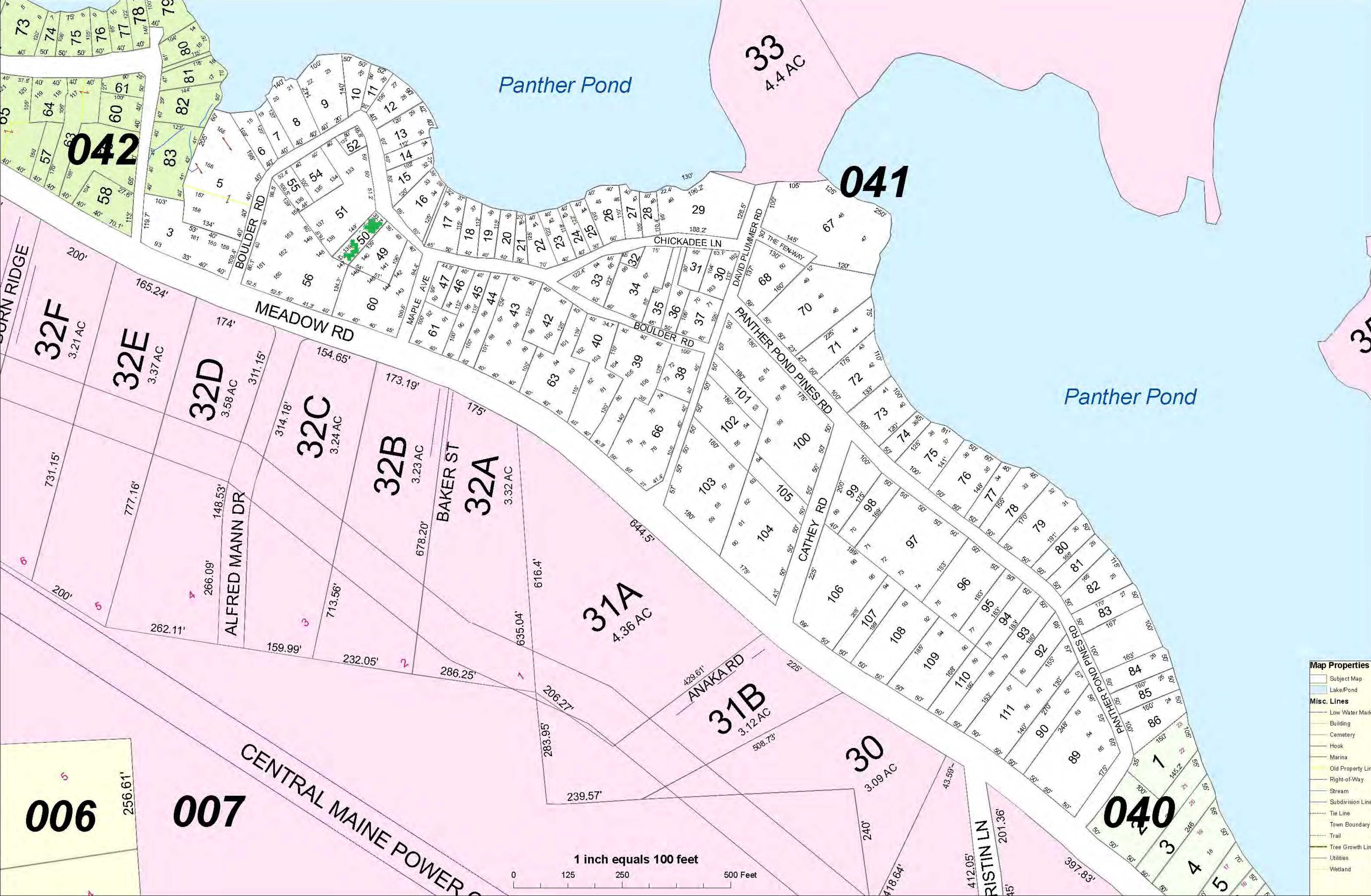


Sources:  
Raymond Assessors' Database  
Maine Office of GIS  
Prepared by:  
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Elisa Trepanier, GIS Technician  
Effective Date: April 1, 2011



- Map Properties**
- Subject Map
  - Lake/Pond
- Misc. Lines**
- Low Water Mark
  - Building
  - Cemetery
  - Hook
  - Marina
  - Old Property Line
  - Right-of-Way
  - Stream
  - Subdivision Line
  - Tie Line
  - Town Boundary
  - Trail
  - Tree Growth Line
  - Utilities
  - Wetland

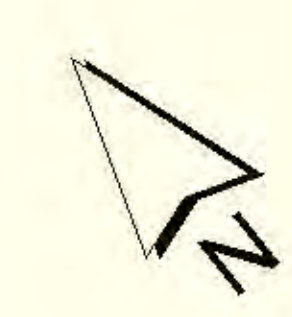




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**TOWN OF RAYMOND**  
**Cumberland County, Maine**  
**Property Map**



Sources:  
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Maine Office of GIS  
Prepared by:  
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