LIVESTOCK ORDINANCE

Section A: Requirements. No person shall have charge of any livestock or non-domestic animals on residential lots that are less than 0.50 acres with the exception of chickens. Roosters are strictly prohibited.

Section B: Violations and Enforcement. This ordinance will be enforced pursuant to Title 30-A Subchapter 5 §4452 subsections 1 through 3 which are attached.
DOMESTICATED CHICKENS

Section 1.1 Purpose.

The purpose of this article is to provide standards for the keeping of domesticated chickens. The article is intended to enable residents to keep a small number of female chickens while limiting the potential adverse impacts on the surrounding neighborhood.

Section 1.2 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Chicken pen.* An enclosure connected to a henhouse for the purpose of allowing chickens to leave the henhouse while remaining in an enclosed, predator-safe environment.

*Enclosure:* The combined area of a henhouse and chicken pen.

*Henhouse:* A structure for the sheltering of female chickens. A legally existing nonconforming detached shed, garage or barn that may be located within the required district setback can be used for this purpose if it meets all other standards contained in this article.

Section 1.3 Keeping of domesticated chickens located in growth area.

(a) No more than six (6) chickens shall be allowed per single-family dwelling property. No chickens shall be permitted within multi-family complexes, including duplexes.
(b) Only female chickens are permitted with no restriction of chicken species.
(c) Chickens shall be kept only for personal use.
(d) Advertising the sale of eggs, chicken breeding or fertilizer production is prohibited.
Section 1.4 Enclosure.

(a) Chickens must be kept in a secure henhouse or chicken pen area at all times. At no time shall chickens be kept in a residence including attached structures.
(b) Chickens shall be secured within the henhouse during non-daylight hours.
(c) Enclosures must be clean, dry and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of abutters due to noise, odor or other adverse impact.
(d) An enclosure shall not be located in the front yard.

Section 1.5 Henhouse.

(a) A henhouse shall be provided and designed to provide safe and healthy living conditions for the chickens while minimizing adverse impacts to abutters.
(b) The structures shall be fully enclosed with latchable doors and windows. Windows and vents must be covered with predator and bird proof wire of less than one-inch openings.
(c) The henhouse shall be well maintained. The use of scrap, waste board, sheet metal, or similar materials for the construction of the structure is prohibited.
(d) Henhouses shall only be located in rear yards. In case of a corner lot, a side yard may be used in accordance with applicable zoning district setbacks but in no case shall the henhouse be closer than ten (10) feet to the side property line.
(e) No henhouse shall be located within ten (10) feet of a rear or side property line.

Section 1.6 Chicken pens.

(a) Chicken pens may be provided. Where provided, the chicken pen shall be attached to the henhouse and the walls shall be constructed of sturdy wire fencing, other than chicken wire, and buried at least twelve (12) inches in the ground. The roof shall be covered with the wire,
aviary netting, chicken wire or solid roofing in a manner to prevent the escape of chickens.
(b) Chicken pens shall only be located in rear yards. In the case of a corner lot, a side yard may be used in accordance with applicable zoning district setbacks but in no cases shall the henhouse be closer than ten (10) feet to the side property line.
(c) No chicken pen shall be located within ten (10) feet of a rear or side property line.

Section 1.7 Odor, noise and lighting.

(a) Odors from chickens shall not be a disturbance to abutters.
(b) Perceptible noise from chickens shall not be a disturbance to abutters.
(c) Only motion-activated lighting may be used to light the exterior of the henhouse.

Section 1.8 Waste storage and removal.

Provisions must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed structure with a roof line or lid over the entire structure. All other manure not used for composting or fertilizing shall be removed from the property.

Section 1.9 Licensing requirements.

A person who keeps domesticated chickens shall obtain a license for a fee of ten ($10.00). The license shall expire annually on the last day of April. The license shall be issued by the Town Clerk after favorable inspection by the East Millinocket Code Enforcement Officer. The ten dollar ($10.00) fee is nonrefundable if the license is not approved. There will be a late fee assessed to licenses that have expired, in the amount of 10 dollars ($10.00). The fine will double after the license has been expired for more than thirty (30) days.
Section 1.10 Penalty.

In addition to any other enforcement action which the town may make, violation of any provision of this article shall be a civil violation and a fine not exceeding one hundred dollars ($100.00) may be imposed. Each day that a violation continues will be treated as a separate offense.

Section 1.11

Any violation of the provisions of this article or of the license shall be grounds for an order from the Code Enforcement Officer to remove the chickens and the chicken related structures. The animal control officer may also order the removal of the chickens upon a determination that the chickens pose a health risk. If a chicken dies, it must be disposed of promptly in a sanitary manner.
§4452. Enforcement of land use laws and ordinances

1. Enforcement. A municipal official, such as a municipal code enforcement officer, local plumbing inspector or building official, who is designated by ordinance or law with the responsibility to enforce a particular law or ordinance set forth in subsection 5, 6 or 7, may:

A. Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect the property or building for compliance with the laws or ordinances set forth in subsection 5. A municipal official's entry onto property under this paragraph is not a trespass; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B. Issue a summons to any person who violates a law or ordinance, which the official is authorized to enforce; and [1993, c. 23, §1 (AMD).]

C. When specifically authorized by the municipal officers, represent the municipality in District Court in the prosecution of alleged violations of ordinances or laws, which the official is authorized to enforce. [1993, c. 23, §1 (AMD).]

[ 1993, c. 23, §1 (AMD); 2007, c. 699, §24 (REV). ]

2. Liability for violations. Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the laws or ordinances set forth in subsection 5 or 6 is liable for the penalties set forth in subsection 3.


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3. Civil penalties. The following provisions apply to violations of the laws and ordinances set forth in subsection 5. Except for paragraph H, monetary penalties may be assessed on a per-day basis and are civil penalties.

A. The minimum penalty for starting construction or undertaking a land use activity without a required permit is $100, and the maximum penalty is $2,500. [1969, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B. The minimum penalty for a specific violation is $100, and the maximum penalty is $2,500. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B-1. Notwithstanding paragraph B, the maximum penalty is $5,000 for any violation of a law or an ordinance set forth in subsection 5, paragraph Q, if the violation occurs within an area zoned for resource protection. [1999, c. 370, §1 (NEW).]

C. The violator may be ordered to correct or abate the violations. When the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction results in:

(1) A threat or hazard to public health or safety;
(2) Substantial environmental damage; or
(3) A substantial injustice. [1989, c. 727, §1 (AMD).]

C-1. [2007, c. 92, §1 (RP).]

C-2. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the provisions of this paragraph apply. The court must order the violator to correct or mitigate the violation unless the correction or mitigation would result in a threat or hazard to public health or safety, substantial environmental damage or a substantial injustice.

(1) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of a tree or trees must include, but is not limited to, replacement of each tree cut with a tree or trees of varying size and species such that the visual impact from the cutting will be remediated, the tree canopy that was cut will be restored within a reasonable time period and a total basal area equal to at least 50% of the basal area cut will be replanted.

(2) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of understory vegetation must include, but is not limited to, replacement of the understory vegetation with understory vegetation of substantially similar size and species to the extent reasonably available and feasible.
(3) For violations requiring correction or mitigation pursuant to subparagraph (1) or (2), the violator shall submit to the municipality a reforestation plan and 5-year management plan developed with and signed by a forester licensed pursuant to Title 32, chapter 76 or other qualified professional. The reforestation plan must include consideration of specified site conditions and address habitat and other riparian restoration, visual screening, understory vegetation and erosion and sedimentation control. The management plan must address how the replacement trees must be maintained to enable the trees to grow to a healthy, mature height.

For purposes of this paragraph, "timber harvesting" has the same meaning as in Title 38, section 438-B, subsection 1, paragraph C.

For purposes of this paragraph, "understory vegetation" means all saplings that measure less than 2 inches in diameter at 4.5 feet above ground level and all shrubs. [2011, c. 228, §1 (AMENDMENT).]

D. If the municipality is the prevailing party, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs as provided by court rule. [1989, c. 727, §1 (AMENDMENT).]

E. In setting a penalty, the court shall consider, but is not limited to, the following:

(1) Prior violations by the same party;

(2) The degree of environmental damage that cannot be abated or corrected;

(3) The extent to which the violation continued following a municipal order to stop; and

(4) The extent to which the municipality contributed to the violation by providing the violator with incorrect information or by failing to take timely action. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

F. The maximum penalty may exceed $2,500, but may not exceed $25,000, when it is shown that there has been a previous conviction of the same party within the past 2 years for a violation of the same law or ordinance. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

G. The penalties for violations of a septage land disposal or storage site permit issued by the Department of Environmental
Protection under Title 38, chapter 13, subchapter 1, are as prescribed in Title 38, section 349. [1997, c. 794, Pt. A, §1 (AMD).]

II. If the economic benefit resulting from the violation exceeds the applicable penalties under this subsection, the maximum civil penalties may be increased. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements. [1989, c. 727, §1 (NEW).]

[2011, c. 228, §1 (AMD).]

4. Proceedings brought for benefit of municipality. All proceedings arising under locally administered laws and ordinances shall be brought in the name of the municipality. All fines resulting from those proceedings shall be paid to the municipality.


5. Application. This section applies to the enforcement of land use laws and ordinances or rules that are administered and enforced primarily at the local level, including:

A. The plumbing and subsurface waste water disposal rules adopted by the Department of Health and Human Services under Title 22, section 42, including the land area of the State that is subject to the jurisdiction of the Maine Land Use Planning Commission; [2007, c. 699, §18 (AMD); 2011, c. 682, §38 (REV).]

B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

C. Local ordinances adopted pursuant to Title 22, section 2642; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

D. Laws administered by local health officers pursuant to Title 22, chapters 153 and 263; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

E. Laws pertaining to fire prevention and protection, which require enforcement by local officers pursuant to Title 25, chapter 313; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 5, sections 4582-B, 4582-C and 4594-F; [2011, c. 613, §28 (AMD); 2011, c. 613, §29 (AFF).]
G. Local land use ordinances adopted pursuant to section 3001; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

H. [2007, c. 699, §18 (RF).]

I. [2007, c. 699, §18 (RF).]

J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter 1 and Title 38, section 1665-A, subsection 3; [2007, c. 699, §18 (AMD).]

K. Local ordinances regarding electrical installations pursuant to chapter 185, subchapter 2; [2007, c. 699, §18 (AMD).]

L. Local ordinances regarding regulation and inspection of plumbing pursuant to chapter 185, subchapter 3; [2007, c. 699, §18 (AMD).]

M. Local ordinances regarding malfunctioning subsurface waste water disposal systems pursuant to section 3428 and laws regarding malfunctioning subsurface waste water disposal systems pursuant to Title 38, section 424-A; [2007, c. 568, §6 (AMD).]

N. The subdivision law and local subdivision ordinances adopted pursuant to section 3001 and subdivision regulations adopted pursuant to section 4403; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

O. Local zoning ordinances adopted pursuant to section 3001 and in accordance with section 4352; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

P. Wastewater discharge licenses issued pursuant to Title 38, section 355-B; [1999, c. 127, Pt. A, §46 (AMD).]

Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those that were state-imposed; [2005, c. 240, §4 (AMD).]

R. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2; [2007, c. 112, §4 (AMD).]

S. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules; [2007, c. 661, Pt. A, §1 (AMD); 2007, c. 699, §18 (AMD).]

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T. Laws pertaining to limitations on construction and excavation near burial sites and established cemeteries in Title 13, section 1371-A and local ordinances and regulations adopted by municipalities in accordance with this section and section 3001 regarding those limitations; [RR 2007, c. 2, §16 (COR).]

U. Standards under a wind energy development certification issued by the Department of Environmental Protection pursuant to Title 35-A, section 3456 if the municipality chooses to enforce those standards; and [RR 2007, c. 2, §17 (COR).]

(Paragraph U as enacted by PL 2007, c. 699, §18 is REALLOCATED TO TITLE 30-A, SECTION 4452, SUBSECTION 5, PARAGRAPH V)


[ 2011, c. 613, §28 (AMD); 2011, c. 613, §29 (AFF); 2011, c. 682, §38 (REV).]

6. Septage and sludge permits issued by the Department of Environmental Protection. A municipality, after notifying the Department of Environmental Protection, may enforce the terms and conditions of a septage land disposal or storage site permit or a sludge land application or storage site permit issued by the Department of Environmental Protection pursuant to Title 38, chapter 13, subchapter 1.

[ 1997, c. 38, §1 (AMD).]

7. Natural resources protection laws. A code enforcement officer, authorized by a municipality to represent that municipality in District Court and certified by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development under section 4453 as familiar with court procedures, may enforce the provisions of Title 38, section 420-C, Title 38, chapter 3, subchapter 1, article 5-A and Title 38, chapter 13-D by instituting injunctive proceedings or by seeking civil penalties in accordance with Title 38, section 349, subsection 2.

[ 2011, c. 655, Pt. FF, §9 (AMD); 2011, c. 655, Pt. FF, §16 (AFF).]

SECTION HISTORY
The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public. If you need legal advice, please consult a qualified attorney.
Application for the Keeping of Domesticated Chickens

Applicant Name: _____________________________

Address: __________________________________

Mailing Address: ____________________________

Phone Number: _____________________________

Signature of Applicant: _____________________ Date: ____________

Annual Chicken License Application fee is $10. Expires April 30th.

There will be a late fee of $10 for licenses that have expired. The fine will double after the license has been expired for more than thirty (30) days.

An inspection by Animal Control and Code Enforcement are required before a license can be issued. Please contact the Animal Control Officer at 746-3555 and the Code Enforcement Officer at 723-7005 to make your appointment.

☐ Approval from Code Enforcement Office: ____________________________________________

Date Signed: ____________________________

☐ Approval from Animal Control Office: _____________________________________________

Date Signed: ____________________________

Paid Fee: $__________________________ Cash / Check Date: ______________________

04/2015