



Town of Hermon

Public Safety Meeting Room

March 23, 2017

Town Council Meeting

7:00 PM

AGENDA

***** Televised live on Cable Channel 97.2 *****

Council Meetings may be viewed live online and are archived after the meeting
has taken place – check hermon.net for link.

*****ALL ITEMS ARE SUBJECT TO APPROPRIATE COUNCIL ACTION*****

- I. CALL TO ORDER BY CHAIRPERSON**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- IV. REVIEW CONSENT CALENDAR: REGULAR BUSINESS, APPOINTMENTS, SIGNATURES,
And APPROVAL OF MINUTES:**
 - MINUTES. -APPROVE**
 - WARRANTS. –SIGN March 24, 2017**
- V. NEWS, PRESENTATIONS AND RECOGNITIONS**
 - Presentation by Runyon, Kersteen & Ouellette**
- VI. PUBLIC ITEMS OR COMMENTS (*Items Not Already on Agenda*)**
- VII. PUBLIC HEARINGS**
- VIII. COMMITTEE REPORTS**



IX. SCHEDULED AGENDA ITEMS

A. OLD BUSINESS

#1. Consider prohibiting all Marijuana Retail Operations within the Town.

B. NEW BUSINESS

#2. Consider renewing contract with the Bangor Humane Society.

#3. Consider approving an agreement with MDOT

C. WORKSHOPS

D. OTHER ITEMS (from Table Package)

X. APPOINTMENTS

XI. MANAGER STATUS REPORT:

XII. FINAL PUBLIC ITEMS OR COMMENT (*Items Not Already on Agenda*)

XIII. COUNCIL ITEMS:

XIV. EXECUTIVE SESSION:

#4. Hold an executive session pursuant to Title 1, Section 405, Subsection 6(A) to discuss a personnel issue.

XV. ADJOURNMENT:

Explanatory note #1: All items in the CONSENT CALENDAR are considered routine and are proposed for adoption by the Town Council with one motion without DISCUSSION or deliberation. If DISCUSSION on any item is desired, any member of the Council or public may request the removal of an item for it to be placed in the regular agenda prior to the motion to approve the Consent Agenda.

Explanatory Note #2: In the interest of effect decision-making: At 10:00 p.m., the Chairman shall poll the Council and Town Manager to identify remaining items which shall be carried forward to the next Regular Meeting.

Explanatory Note #3: A Councilor who feels the need for the Council excusing his/her absence will make the request to the Town Manager or the Town Clerk prior to the meeting.

MEMORANDUM

To: Members of the Hermon Town Council
From: Howard Kroll, Town Manager
Re: 23 March 2017 Town Council Meeting
Date: 17 March 2017

#1. Prohibit all Marijuana Retail operations within the Town

At the 16 March 2017 meeting Town Council directed the Town Manager to begin the process to have the Town prohibit any and all retail marijuana operations within the Town borders. By doing so the Town Manager will need the Town Council to direct him to craft a letter to the Town of Hermon Planning Board, via the Code Enforcement Officer, recommending the board to consider prohibiting the sale of recreational marijuana retail, social clubs and cultivation facilities entirely within the Town of Hermon.

The Town Council also needs to direct the Town Manager to include in his letter to the Planning Board to proceed with adding the prohibited use to the Town of Hermon Land Use Ordinance using a land use amendment process.

Town Manager recommends approval

#2. Consider- approving the renewal of the contract between The Town of Hermon and the Bangor Humane Society

Town of Hermon Staff is seeking Town Council's consideration to approve renewing the contract with Bangor Humane Society for one year starting 1 July 2017 and ending 30 June 2018. We have a good relationship with the Bangor Humane Society and wish to continue to work with them on improving their service to the Town.

Town Manager recommends Town Council to approve the renewal of the contract.

#3. Approve an agreement with Maine Department of Transportation on Update

Town of Hermon staff is seeking the Town Council's consideration to approve an agreement with the Maine Department of Transportation that will require the Town to issue a construction overlimit permit to contractor who will haul non-divisible overlimit loads on municipal ways namely the Newburgh Road otherwise known as Project 018973.00.

This is an option that protects both the Town and State on our investment of infrastructure. While it is unfortunate that we need to resort to this philosophy we must do whatever it takes to ensure our infrastructure remains strong and doesn't become a strap on our limited resources.

Town Manager recommends Town Council to approve the agreement with MDOT

TOWN OF HERMON

FINANCIAL OVERVIEW

INSIDE

2. Summary of Audit Results
3. General Fund – Fund Balances
4. General Fund – Revenues – Town
5. General Fund – Expenditures – Town
6. General Fund – Revenues – School Department Only
7. General Fund – Expenditures – School Department Only
8. General Fund – Revenue Distribution
9. General Fund – Expenditure Distribution - 2016
10. Unassigned Fund Balance as Percentage of Budget, FY 2015 - 2016

About this presentation

This presentation is intended as a tool to assist the Town Council, School Committee and management in understanding its financial operating results. The information contained in this publication should be read in conjunction with the audited financial statements and related disclosures and should not be used for any other purposes without the expressed consent of **RUNYON KERSTEEN OUELLETTE**.

Please contact us at 207-773-2986 or 1-800-486-1784
20 Long Creek Drive, South Portland, ME 04106



TOWN OF HERMON

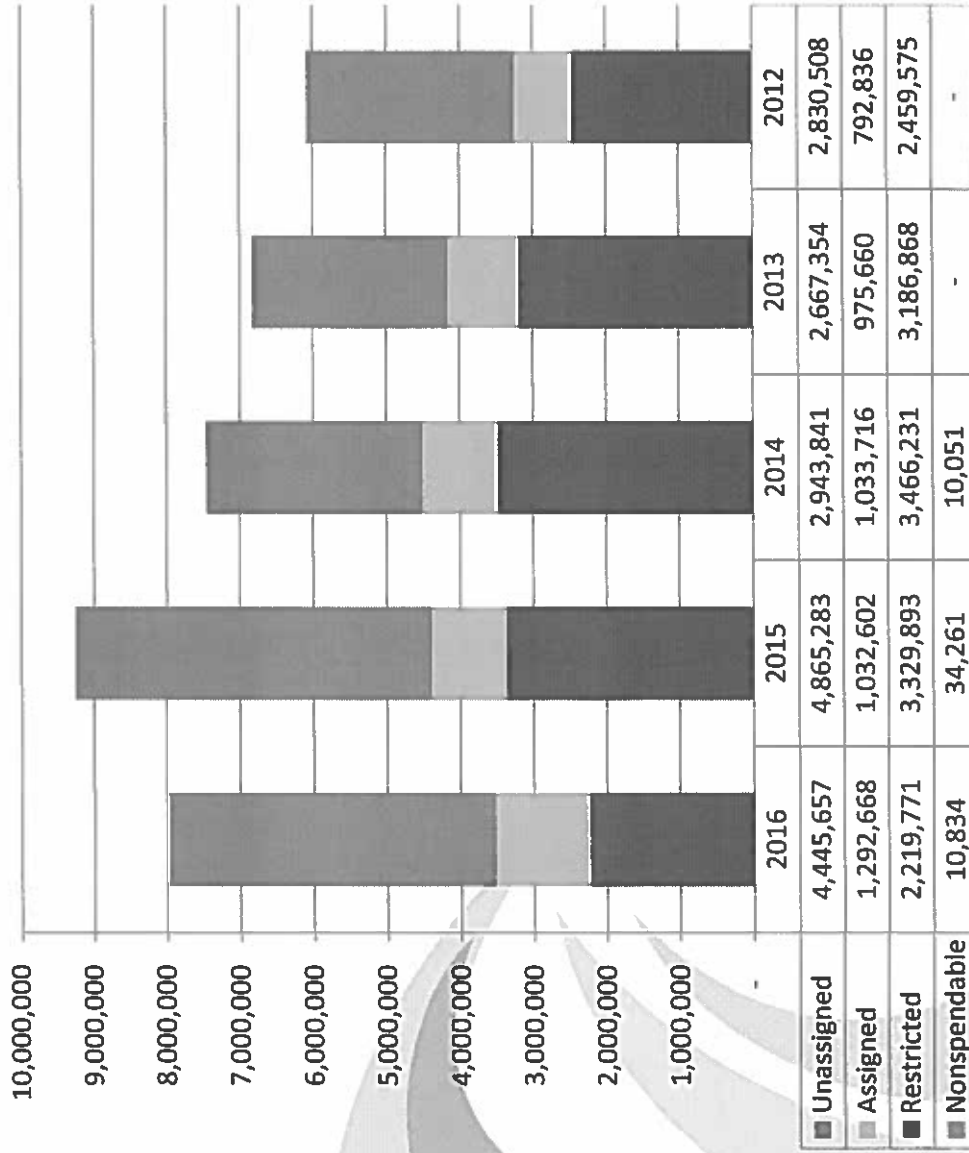
SUMMARY OF AUDIT RESULTS

- Financial Statement Opinion - Unmodified
- Report Required by *Government Auditing Standards (GAS)*
 - No Material Weaknesses
 - No significant Deficiencies
 - Recommendations / other comments related to:
 - Segregation of duties
 - Middle School activity funds
 - School department cash account
 - Uniform Guidance
 - Town / School Department reconciliation



TOWN OF HERMON

GENERAL FUND - FUND BALANCES



- **Nonspendable fund balance** represents resources which cannot be spent because they are either a) not in spendable form or; b) legally or contractually required to be maintained intact.

- **Restricted fund balance** comprises resources with constraints placed on their use externally imposed by creditors, grantors, contributors or laws or regulations of other governments.

- **Assigned fund balance** represents resources that are constrained by the Town's intent to be used for specific purposes and changes annually based on status of projects and appropriations.

- **Unassigned fund balance** is what remains after amounts are recognized in other categories and decreased by \$419,626 from 2015 to 2016.

- **Total fund balance** decreased by \$1,293,109 as revenues exceeded expenditures and transfers to other funds.



TOWN OF HERMON

GENERAL FUND – REVENUES

	Budget	Actual	Variance
Taxes	8,239,348	8,911,842	672,494
Intergovernmental	5,671,730	5,804,882	133,152
Licenses and permits	51,800	69,339	17,539
Charges for services	1,797,236	1,970,979	173,743
Interest earned	14,000	72,456	58,456
Other revenues	451,440	602,775	151,335
Total revenues	16,225,554	17,432,273	1,206,719
Utilization of prior year surplus - School	2,081,245	-	(2,081,245)
Utilization of prior year surplus - Town	1,021,278	-	(1,021,278)
Total revenues and other financing sources	19,328,077	17,432,273	(1,895,804)

- Tax revenues were over budget due to higher-than-expected excise tax revenues.
- Intergovernmental revenues were over budget primarily due to higher-than-expected State education subsidy.
- Charges for services were over budget due to higher-than-expected school tuitions and fees.
- Other revenues exceeded budget primarily due to the receipt of unbudgeted School Department revenues.



TOWN OF HERMON

GENERAL FUND – EXPENDITURES

	Budget	Actual	Variance
General government	789,541	754,924	34,617
Public safety	773,137	740,793	32,344
Public works	1,011,103	1,006,653	4,450
Solid waste	555,640	535,557	20,083
Recreation and social services	153,975	143,799	10,176
Unclassified	1,277,713	1,051,031	226,682
Education	12,367,312	11,761,906	605,406
Debt service	105,089	99,656	5,433
Capital expenditures	96,000	402,700	(306,700)
Total expenditures	17,129,510	16,497,019	632,491
Transfers out	2,198,567	2,198,567	-
Total expenditures and other financing uses	19,328,077	18,695,586	632,491

- **Unclassified** expenditures were under budget due to lower-than-expected tax increment financing and economic development costs, as well as a budgeted but unused transfer to the school tax stabilization reserve.

- **Education** – See slide 7.



TOWN OF HERMON

GENERAL FUND – REVENUES – SCHOOL ONLY

	Budget	Actual	Variance
State education subsidy	5,090,239	5,200,635	110,396
State agency client	20,000	26,061	6,061
Tuition and fees	1,550,000	1,707,593	157,593
Medicaid reimbursements	6,000	25,253	19,253
Investment earnings	-	8,035	8,035
Other revenues	433,840	5433,122	99,282
Total revenues	7,100,079	7,500,699	400,620
Town appropriation	4,412,777	4,412,777	-
Utilization of prior year surplus	2,081,245	-	(2,081,245)
Total revenues and other financing sources	13,594,101	11,913,4746	(1,680,625)

- **State education subsidy** was over budgeted as the State's preliminary projections were lower than what was ultimately received.

- **Tuition and fees** were over budget due to a higher-than-expected reimbursement rate.

- **Other revenues** were over budget primarily due to unbudgeted miscellaneous revenues, as well as higher-than-expected expense reimbursement revenues.

Observations:



TOWN OF HERMON

GENERAL FUND – EXPENDITURES – SCHOOL ONLY

	Budget	Actual	Variance
Regular instruction	5,348,497	5,071,126	277,371
Special education instruction	1,750,312	1,582,058	168,254
Career and technical education	199,626	199,626	-
Other instruction	393,314	340,053	53,261
Student and staff support	1,192,101	1,147,394	44,707
System administration	364,453	341,115	23,338
School administration	677,465	672,360	5,105
Transportation	478,700	471,634	7,066
Facilities maintenance	1,440,728	1,439,560	1,168
Debt service	522,116	496,980	25,136
Total expenditures	12,367,312	11,761,906	605,406
Transfers out	1,226,789	1,226,789	-
Total expenditures and other financing uses	13,594,101	12,988,695	605,406

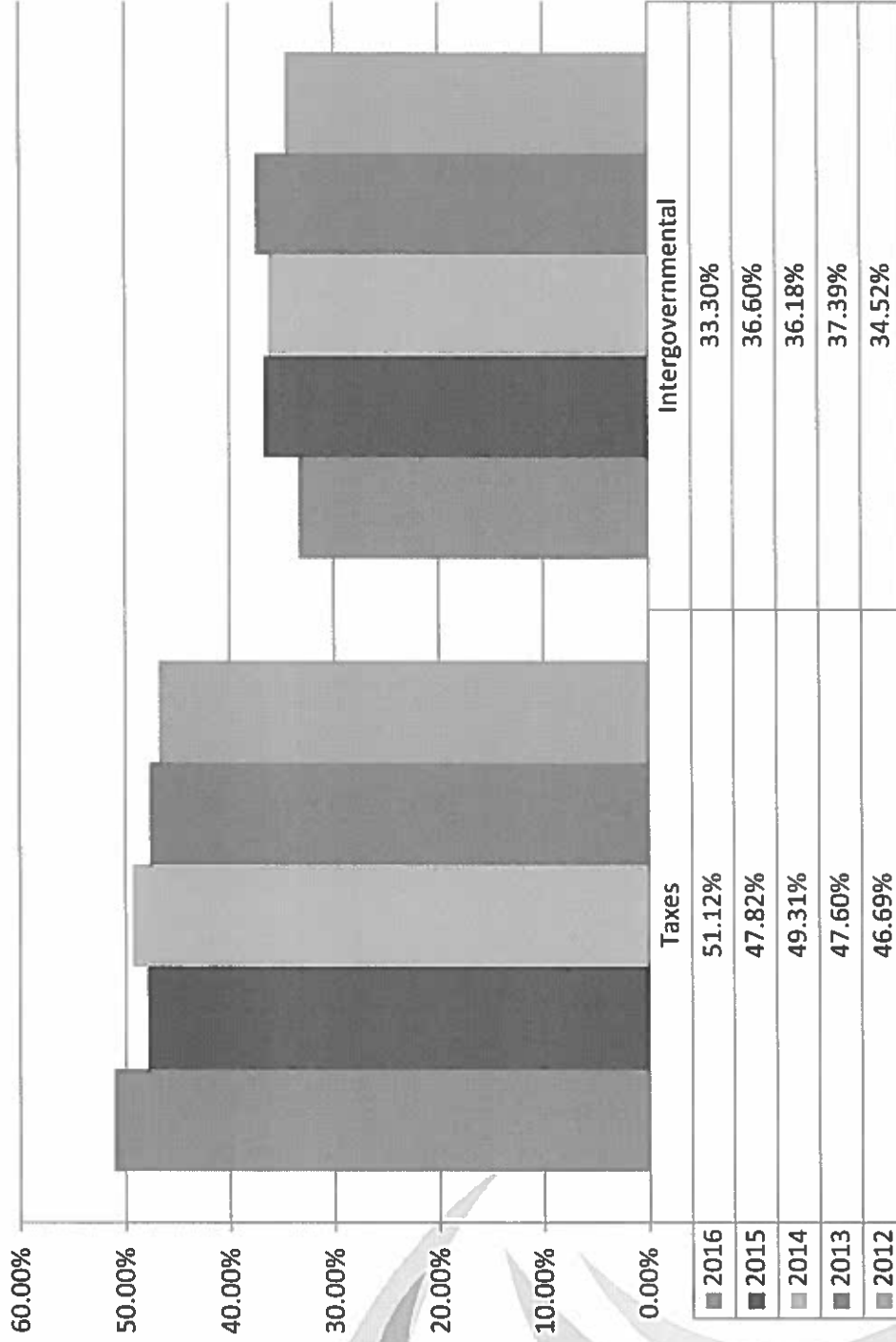
- Regular instruction expenditures were under budget primarily due to the hiring of new teachers at lower wages, as well as lower-than-expected substitute wages.

- Special education instruction expenditures were under budget primarily due to a reduced need for out-of-district placement tuition, as well as lower-than-expected substitute wages and tuition reimbursements.



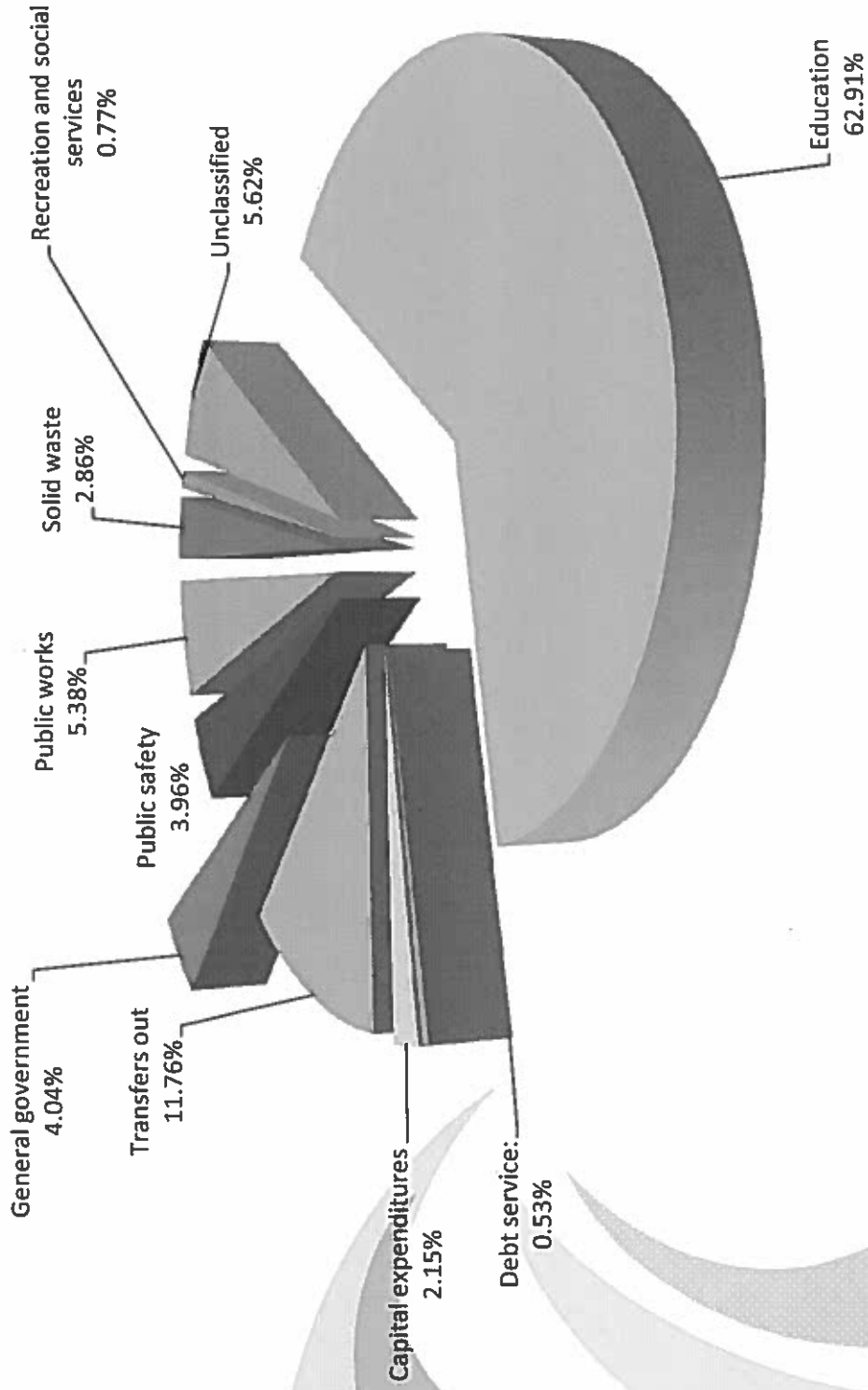
TOWN OF HERMON

GENERAL FUND – REVENUE DISTRIBUTION



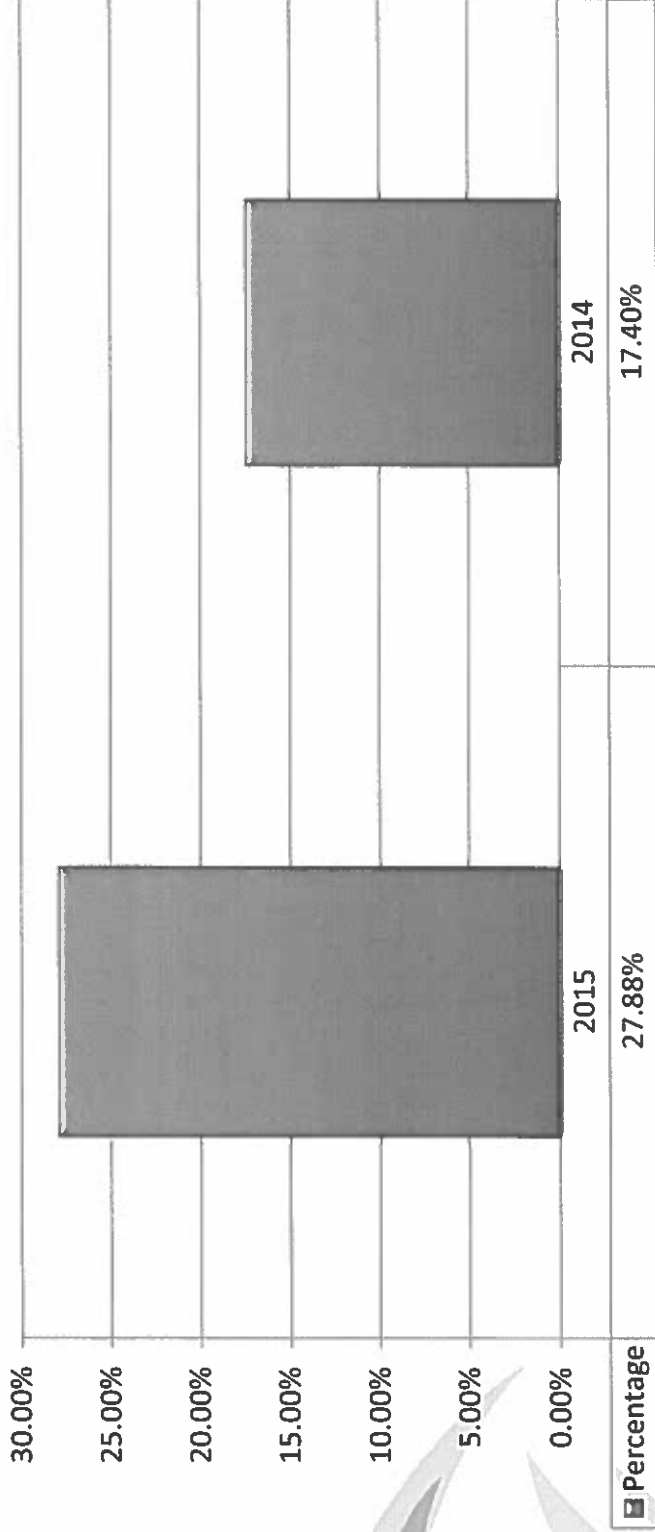
TOWN OF HERMON

GENERAL FUND – EXPENDITURE DISTRIBUTION - 2016



TOWN OF HERMON

UNASSIGNED FUND BALANCE AS A PERCENTAGE OF BUDGET, FY 2015 – 2016



- Fund balance provides working capital for the Town and enhances its credit-worthiness.
- We generally recommend one to two months of expenditures, which equals 8.3% to 16.7%.





#1.
3-23-17

March 3, 2017

Howard Kroll
Town Manager

Howard,

Several Councilors and staff attended the Maine Municipal Workshop entitled "*Lifting the Haze: Marijuana & Legal Considerations*" on February 28, 2017 presented by Drummond Woodsum law firm.

Currently Hermon has provisions for medical marijuana cultivating and processing facilities in its land use ordinance, but with the passage of the *Marijuana Legalization Act MRSA c.417* we needed to become informed about the potential impacts of retail stores, social clubs and other recreational use issues that the new law provides for in order to craft appropriate land use regulations that need to be added to our current schedule of uses.

Our group learned that there are three distinct choices:

1. Allow State licensing regulations to be created and conform to those standards alone when processing applicants and add the use to our schedule of ordinances;
2. Craft our own local licensing process with additional regulations that work in concert with the State of Maine and add the use to our schedule of ordinances, or;
3. Prohibit the sale of recreational marijuana and associated social club opportunities entirely as provided in the law *MRSA c. 417 section 2447-item 4. Limitation on number of retail marijuana stores* and add the prohibited use to our code of ordinances using a land use amendment process.

Thanks,

Scott Perkins

Mailing address
PO Box 6300
Hermon, ME 04402-6300

Physical Address:
333 Billings Rd
Hermon, ME 04401

Telephone: 207 848-1010
FAX: 207 848-3316
Website: www.Hermon.Net



The animal place

#2.

3-23-17

March 10, 2017

Wendy Wiles-Scott
Town of Hermon
PO Box 6300
Hermon, ME 04402

Dear Ms. Wiles-Scott:

The time has come again to renew agreements and update our contact information for your municipality. The contract rate per capita has been increased by 2% from our 2016/2017 rates. We used the 2016-2017 Maine Municipal Association's latest population figures to determine your annual contract amount. We are enclosing for your convenience the following information:

1. **2017/2018 Contract Renewal Addendum** – *Please sign and return to the Bangor Humane Society by May 1st, 2017.*
2. **Municipal Stray Contract information Sheet** - Your municipality is responsible for setting the impound fee structure. This fee will be charged to the owner when reclaiming their stray pet. The charges for impound fees that you select will be returned to you each month along with a report detailing the strays received and returned from your municipality. *Please complete and return along with the renewal.*

We would like to remind you that the current stray contract does not include:

- **Owner Surrenders:** We may accommodate owner-surrenders by prior arrangement if we have space. The ACO must have proper paperwork signed by the owner legally releasing the pet to the ACO.
- **Seized Animals:** Prior arrangements must be made to bring in seized pets.
- **Quarantined Pets:** BHS is licensed to quarantine a maximum of 2 dogs and two cats at a time. Prior arrangements must be made to bring in a quarantined pet. Additional fees will be charged the municipality.

We encourage you or your ACO to call us if you have any questions or need assistance with sheltering pets who are owner released, seized or in need of quarantine. Depending upon kennel availability, BHS will make every effort to assist you.

Thank you for choosing to contract with the Bangor Humane Society. We look forward to providing this important service for your residents for many years to come. You are most welcome to stop by and tour our facility. And of course please do not hesitate to contact us if you have any questions.

Best Wishes,

Suzan L. Bell
Executive Director
942-8902 ext. 105
sbell@bangorhuman.org

693 Mt. Hope Avenue | Bangor, ME 04401
ph 207/942-8902 | fx 207/942-1223 | www.bangorhumane.org



RENEWAL ADDENDUM

THIS RENEWAL ADDENDUM is made and executed in duplicate as of this 10th day of March, 2017 by and between the **Town of Hermon** and Bangor Humane Society ("BHS").

RECITALS:

A. The parties entered into an Agreement on 8/1/2005 concerning the provision of shelter and care of strayed and lost dogs, cats, and rabbits.

B. The term (or renewal term, as the case may be) of said Agreement expires on **June 30, 2017**, and the parties are desirous of renewing said Agreement for an additional one year period.

NOW, THEREFORE, in consideration of the foregoing recitals and the benefits and obligations in the original Agreement, the parties hereby agree as follows:

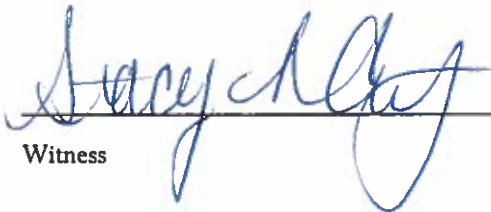
1. The term of the Agreement (or the most recent renewal term thereof, as the case may be) shall be extended for an additional one year period, commencing on **July 1, 2017**, and expiring on **June 30, 2018**.

2. For the services to be provided by BHS during the renewal term, the (Municipality) agrees to pay BHS the total annual sum of **\$8175.99**, which is based on 1.5096 per capita of the **Town of Hermon's** population as of the most recent Maine Municipal Association data, payable in advance in **11 equal monthly installments of 681.33** and a final installment of **\$681.36**, the first installment being due and payable on the date of commencement of this renewal term set forth in Paragraph 1.

3. Other terms:

4. Except as expressly modified hereby, the parties agree that the terms and conditions of the original Agreement shall be applicable to and binding on the parties for the one year renewal term set forth in Paragraph 1.

IN WITNESS WHEREOF, the parties have caused this Renewal Addendum to be duly executed and sealed on their behalf, in duplicate counterparts, as of the date first above written.



Witness

BANGOR HUMANE SOCIETY

By: 

Printed Name: Suzan Bell

Its: Executive Director

MUNICIPALITY OF _____

By: _____

Printed Name: _____

Its: _____

Witness



Stray Municipal Contract Information 2017/2018

Municipality	_____
Address for billing/reporting	_____ _____
Telephone:	_____
Hours:	_____
Contact Person:	_____

Animal Control Officer (s):	Telephone / Pager #:	
1) _____	1) _____	
2) _____	2) _____	
Impound Fees:		
1st Offense	2nd Offense	3rd Offense
Cat: _____	_____	_____
Dog: _____	_____	_____

Emergency Veterinary Care:
Contact Person or Veterinary Clinic: _____
Phone Number: _____

Billing Preference for contract:	
Monthly _____	Semi-Annual _____
Quarterly _____	Annual _____

#3.
3-23-17

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016



Paul R. LePage
GOVERNOR

David Bernhardt
COMMISSIONER

Ruth A. Nickerson, Clerk
Town of Hermon
333 Billings Road, P.O. Box 6300
Hermon, ME 04402

Subject: Pond Road Bridge Deck Replacement
Project No: 018973.00
Town of Hermon

Dear Ms. Nickerson:

The Maine Department of Transportation will soon solicit quotes for the subject project for construction, and pursuant to 29-A MRSA § 2382 (7) we have established a "Construction Area". A copy of 29-A § 2382 is enclosed for your information. Also included is an agreement, which requires signature by the municipal officers, and additional background documents.

The agreement stipulates that the municipality will issue a permit for a stated period of time to the MDOT contractor for transporting construction equipment (backhoes, bulldozers, etc.) that exceed legal weight limits, over municipal roads. The agreement acknowledges the municipality's right to require a bond from the contractor to "guarantee suitable repair or payment of damages" per 29-A MRSA.

29-A MRSA § 2382 (7) states that "*the suitability of repairs or the amount of damage is to be determined by the Department of Transportation on state-maintained ways and bridges, otherwise by the municipal officers*". In other words, municipal officers determine the suitability of repairs on municipal ways and bridges.

The State cannot force municipalities to allow overweight vehicles to travel on posted municipal roads. Municipal postings supersede overweight permits. However, the agreement requires municipalities to make reasonable accommodations for overweight vehicles that are operated by contractors and the MDOT in connection with the construction project.

The specific municipal roads involved are not necessarily known at present, as the contractor's plan of operation won't be known until just prior to the start of work. If the municipality plans to require a bond; the amount of the bond should be determined prior to the start of work. If the project number administratively changes, you will be notified, and the agreement modified accordingly. Please return the completed agreement to my attention. Should you have any questions, please contact me at 624-3410.

Sincerely,

George M.A. Macdougall
Contracts & Specifications Engineer
Bureau of Project Development

Return this AGREEMENT, when completed, to:

Maine Department of Transportation
ATTN.: George Macdougall, Contracts & Specifications Engineer
#16 State House Station, Child Street
Augusta, Maine 04333-0016

Project: 018973.00
Location: Newburgh Road

Pursuant to 29-A MRSA § 2382, the undersigned municipal officers of the **Town of Hermon** agree that a construction overlimit permit will be issued to the Contractor for the above-referenced project allowing the contractor to haul non-divisible overlimit loads on municipal ways.

The municipality may require the contractor to obtain a satisfactory bond pursuant to 29-A MRSA § 2388 to cover the cost of any damage that might occur as a result of the overlimit loads. If a bond is required, the exact amount of said bond should be determined prior to the use of any municipal way. The Maine DOT will assist in determining the amount of the bond if requested. A suggested format for a general construction overlimit bond is attached. A suggested format for a construction overlimit permit is also attached. This construction overlimit permit does not supersede rules that restrict the use of public ways, such as posting of public ways, pursuant to 29-A MRSA § 2395.

The maximum speed limit for trucks on any municipal way will be 25 mph (40 km per hour) unless a higher speed limit is specifically agreed upon, in writing, by the Municipal Officers.

TOWN OF HERMON
By the Municipal Officials

SPECIAL PROVISION 105
CONSTRUCTION AREA

A Construction Area located in the **Town of Hermon** has been established by the Maine Department of Transportation (MDOT) in accordance with provisions of 29-A § 2382 Maine Revised Statutes Annotated (MRSA).

- (a) The section of highway under construction in the town of Hermon, Penobscot County on Newburgh Road over Interstate 95.
- (b) (Newburgh Road) over Interstate 95 station 16+50.00 to station 23+43.82 of the construction plus approaches.

Per 29-A § 2382 (7) MRSA, the MDOT may “*issue permits for stated periods of time for loads and equipment employed on public way construction projects, United States Government projects or construction of private ways, when within construction areas established by the Department of Transportation. The permit:*

A. Must be procured from the municipal officers for a construction area within that municipality;

B. May require the contractor to be responsible for damage to ways used in the construction areas and may provide for:

(1) Withholding by the agency contracting the work of final payment under contract; or

(2) The furnishing of a bond by the contractor to guarantee suitable repair or payment of damages.

The suitability of repairs or the amount of damage is to be determined by the Department of Transportation on state-maintained ways and bridges, otherwise by the municipal officers;

C. May be granted by the Department of Transportation or by the state engineer in charge of the construction contract; and

D. For construction areas, carries no fee and does not come within the scope of this section.”

The Municipal Officers for the **Town of Hermon** agreed that an Overlimit Permit will be issued to the Contractor for the purpose of using loads and equipment on municipal ways in excess of the limits as specified in 29-A MRSA, on the municipal ways as described in the “Construction Area”.

As noted above, a bond may be required by the municipality, the exact amount of said bond to be determined prior to use of any municipal way. The MDOT will assist in determining the bond amount if requested by the municipality.

The maximum speed limits for trucks on any town way will be 25 mph (40 km per hour) unless a higher legal limit is specifically agreed upon in writing by the Municipal Officers concerned.

GENERAL GUIDANCE

CONSTRUCTION OVERLIMIT PERMIT AND BONDING

The Maine Bureau of Motor Vehicles (BMV) establishes requirements and standards for the permitting of non-divisible over dimensional and overweight vehicles and loads (collectively overlimit loads) on state roads. These state motor vehicle permits are available on-line. 29-A MRSA and Secretary of State Administrative Rules Chapters 155-157 apply. Additionally, municipalities and county commissioners may issue overweight permits for travel on municipal and county ways maintained by that municipality or county. These permits are typically single trip permits requiring vehicle registration data, intended route etc.

However, in this case we're dealing with *Construction Permits* involving overlimit loads in support of construction projects. According to 29-A MRSA § 2382 (7), a Construction Permit is a permit "*for a stated period of time that may be issued for loads and equipment employed on public way construction projects, United States Government projects or construction of private ways, when within construction areas established by the Department of Transportation*". According to 29-A § 2382 MRSA, the construction overlimit permit must be procured from the municipal officers for overweight loads on a municipal way in support of a construction project within that municipality.

By signing the attached agreement, the municipality agrees to issue construction overlimit permits to the MDOT construction contractor.

Frequently Asked Questions:

A. Why sign the document in advance of the actual construction contract?

Response: There are three primary reasons: First, to comply with 29-A § 2382. Second, to ensure that there are no surprises regarding the use of municipal roads by the Maine DOT contractor (to reasonably reduce risk and thus keep the cost of construction down) and third, to ensure the town is aware of its rights to control its own roads, and its rights to require a separate contractor's bond. (This is in addition to the Payment Bond and the Performance Bond the Maine DOT requires of the contractor).

B. Different roads may require different levels of scrutiny. How is a posted road handled?

Response: Despite the general construction overweight permit, the contractor cannot exceed the load limit on a posted municipal road without specific municipal permission. 29-A § 2395 MRSA notes that any ways requiring special protection (such as posted roads) will continue to be protected and overweight permits are superseded by such postings. In such a case the contractor would have to use an alternate route.

C. Is there any reason why the contractor cannot be held to indemnify and hold harmless the Municipality beyond the simple posting of a bond?

Response: The objective of our standard letter is to deal with overweight equipment and trucks on municipal ways during construction of a Maine DOT construction project. The bond merely provides a measure of protection against damage to municipal ways as a direct result of construction activity. Other areas of risk and indemnification are beyond the scope of our letter.

D. Are we required to obtain a bond?

Response: No. In fact, few municipalities have required a construction bond. It is a matter of risk management.

E. If used, what amount should be required on the bond?

Response: Previous MDOT letters used to speak about a maximum bond amount of \$14,000 / mile (\$9,000 / kilometer) of traveled length, however 29-A § 2382 sets no maximum. The amount of the bond (if any bond is required at all) is based on the individual situation. The MDOT will assist in providing a bond amount estimate if so requested.

F. Why the blanket approval?

Response: The blanket approval we seek is the reasonable accommodation by the municipality to allow the Maine DOT contractor to use town ways (if required) to haul overweight construction equipment and trucks. This theoretically gives the municipality and the MDOT time to discuss exceptions to a blanket approval. In general, this avoids unnecessary risks and saves money for all concerned in the long run.

G. Who determines the suitability of repairs?

Response: For municipal ways, the suitability of repairs may be determined by municipal officers. The MDOT will assist.

H. What is a non-divisible load?

Response: Per Chapter 157 (The Administration of Over-Dimension and Overweight Permits) under the Secretary of State administrative rules (See Rule Chapters for the Department of the Secretary of State on line), a non-divisible load is defined as: A load which, if separated into smaller loads or vehicles, would:

- 1) make it unable to perform the function for which it was intended;
- 2) destroy its value or;
- 3) require more than eight work hours to dismantle using appropriate equipment. Sealed oceangoing containers, spent nuclear materials in casks, and government-controlled military vehicles and their loads will be considered non-divisible

I. What is the standard for Overweight trucks and equipment?

Response: Overweight means a weight that exceeds the legal limits established in 29-A MRSA Chapter 21.

J. This is an unorganized township with no county or municipal roads. Why should I respond?

Response: Because of limited staff, we send out a standard letter to cover contingencies and minimize risk to the construction process. From time to time the letter may not have a practical application. In most cases of unorganized territories, the agreement is signed and returned as a matter of routine. This ensures that surprises will not be encountered after the start of construction regarding travel over municipal and county ways.

Additional tips:

False Information - Permits are invalidated by false information. A permit is invalidated by the violation of any condition specified by the terms of the permit or by false information given on the application. On evidence of such violation or falsification, the permittee may be denied additional permits.

Proper Registration - Overload permits do not relieve the registrants of vehicles from their obligations to properly register their vehicles in accordance with Motor Vehicle Laws.

Agent's Power of Attorney - If you do require a contractor's bond, make sure you have a copy of the Surety Agent's power of attorney authorizing the surety agent to sign for the surety. Keep the power of attorney with your duplicate original bond at the municipality. The contractor will also have a duplicate original.

Other bonds - The Maine DOT requires a payment bond and a performance bond of the contractor which is held against unsatisfactory performance on the part of the contractor for all construction projects over \$100,000. (The Miller Act (40 U.S.C. 270a-270f) normally requires performance and payment bonds for any federal aid construction contract exceeding \$100,000. 14 MRSA § 871 provides a similar requirement for state funded construction projects.) These bonds cover the proper performance of the contract and the payment of all employees, suppliers and subcontractors.

SPECIAL PROVISION 105
OVERLIMIT PERMITS

Title 29-A § 2382 MRSA Overlimit Movement Permits.

1. Overlimit movement permits issued by State. The Secretary of State, acting under guidelines and advice of the Commissioner of Transportation, may grant permits to move nondivisible objects having a length, width, height or weight greater than specified in this Title over a way or bridge maintained by the Department of Transportation

2. Permit fee. The Secretary of State, with the advice of the Commissioner of Transportation, may set the fee for single trip permits, at not less than \$6, nor more than \$30, based on weight, height, length and width. The Secretary of State may, by rule, implement fees that have been set by the Commissioner of Transportation for multiple trip, long-term overweight movement permits. Rules established pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

3. County and municipal permits. A county commissioner or municipal officer may grant a permit, for a reasonable fee, for travel over a way or bridge maintained by that county or municipality

4. Permits for weight. A vehicle granted a permit for excess weight must first be registered for the maximum gross vehicle weight allowed for that vehicle.

5. Special mobile equipment. The Secretary of State may grant a permit, for no more than one year, to move pneumatic-tire equipment under its own power, including Class A and Class B special mobile equipment, over ways and bridges maintained by the Department of Transportation. The fee for that permit is \$15 for each 30-day period.

6. Scope of permit. A permit is limited to the particular vehicle or object to be moved, the trailer or semitrailer hauling the overlimit object and particular ways and bridges.

7. Construction permits. A permit for a stated period of time may be issued for loads and equipment employed on public way construction projects, United States Government projects or construction of private ways, when within construction areas established by the Department of Transportation. The permit:

A. Must be procured from the municipal officers for a construction area within that municipality;

B. May require the contractor to be responsible for damage to ways used in the construction areas and may provide for:

(1) Withholding by the agency contracting the work of final payment under contract; or

(2) The furnishing of a bond by the contractor to guarantee suitable repair or payment of damages.

The suitability of repairs or the amount of damage is to be determined by the Department of Transportation on state-maintained ways and bridges, otherwise by the municipal officers;

C. May be granted by the Department of Transportation or by the state engineer in charge of the construction contract; and

D. For construction areas, carries no fee and does not come within the scope of this section.

8. Gross vehicle weight permits. The following may grant permits to operate a vehicle having a gross vehicle weight exceeding the prescribed limit:

A. The Secretary of State, with the consent of the Department of Transportation, for state and state aid highways and bridges within city or compact village limits;

B. Municipal officers, for all other ways and bridges within that city and compact village limits; and

C. The county commissioners, for county roads and bridges located in unorganized territory.

9. Pilot vehicles. The following restrictions apply to pilot vehicles.

A. Pilot vehicles required by a permit must be equipped with warning lights and signs as required by the Secretary of State with the advice of the Department of Transportation.

B. Warning lights may be operated and lettering on the signs may be visible on a pilot vehicle only while it is escorting a vehicle with a permit on a public way.

With the advice of the Commissioner of Transportation and the Chief of the State Police, the Secretary of State shall establish rules for the operation of pilot vehicles.

9-A. Police escort. A person may not operate a single vehicle or a combination of vehicles of 125 feet or more in length or 16 feet or more in width on a public way unless the vehicle or combination of vehicles is accompanied by a police escort. The Secretary of State, with the advice of the Commissioner of Transportation, may require a police escort for vehicles of lesser dimensions.

A. The Bureau of State Police shall establish a fee for state police escorts to defray the costs of providing a police escort. A county sheriff or municipal police department may establish a fee to defray the costs of providing police escorts.

B. The Bureau of State Police shall provide a police escort if a request is made by a permittee. A county sheriff or municipal police department may refuse a permittee's request for a police escort.

C. A vehicle or combination of vehicles for which a police escort is required must be accompanied by a state police escort when operating on the interstate highway system.

10. Taxes paid. A permit for a mobile home may not be granted unless the applicant provides reasonable assurance that all property taxes, sewage disposal charges and drain and sewer assessments applicable to the mobile home, including those for the current tax year, have been paid or that the mobile home is exempt from those taxes. A municipality may waive the requirement that those taxes be paid before the issuance of a permit if the mobile home is to be moved from one location in the municipality to another location in the same municipality for purposes not related to the sale of the mobile home.

11. Violation. A person who moves an object over the public way in violation of this section commits a traffic infraction.

Section History:

PL 1993, Ch. 683, §A2 (NEW).

PL 1993, Ch. 683, §B5 (AFF).

PL 1997, Ch. 144, §1,2 (AMD).

PL 1999, Ch. 117, §2 (AMD).

PL 1999, Ch. 125, §1 (AMD).

PL 1999, Ch. 580, §13 (AMD).

PL 2001, Ch. 671, §30 (AMD).

PL 2003, Ch. 166, §13 (AMD).

PL 2003, Ch. 452, §Q73,74 (AMD).

PL 2003, Ch. 452, §X2 (AFF).

MUNICIPAL OVERLIMIT PERMIT FOR CONSTRUCTION

MUNICIPALITY: _____

Phone: 207-_____; fax: 207-_____

APPLICATION FOR OVERLIMIT PERMIT TO MOVE CONSTRUCTION EQUIPMENT AND LOADS IN EXCESS OF LEGAL LIMITS ON MUNICIPAL WAYS

Construction Time Period:

Per 29-A § 2382 (7) MRSA, application is hereby made to the MUNICIPALITY OF _____ for An Overlimit Permit to move construction equipment, material, objects or loads in excess of legal limits over ways maintained by the MUNICIPALITY in support of construction operations for the following Maine DOT project

Project Description:

Project Identification Number (PIN):

NAME OF PERMITTEE (Construction Company):

STREET/P.O. BOX:

CITY:

STATE/PROV:

ZIP / POSTAL CODE:

PHONE:

FAX:

This object or load cannot be readily reduced to the legal limits.

Signed by:

(name & title)

Permit is granted. A copy of this signed permit will be provided to the permittee as prove of permit. This permit will automatically expire at the physical completion of the above construction project. The original permit will be held on file at the municipality.

Signed:

Municipal Official

The Surety hereby waives notice of any alteration or extension of time made by the Municipality.

Signed and sealed this day of, 20..... .

WITNESS:

SIGNATURES:

CONTRACTOR:

Signature.....
Print Name Legibly
.....

.....
Print Name Legibly
.....

WITNESS:

SIGNATURES SURETY:

Signature.....
Print Name Legibly

Signature.....
Print Name Legibly

NAME OF LOCAL AGENCY:
ADDRESS
TELEPHONE

NAME OF SURETY
SURETY ADDRESS:.....

BOND # _____

The Surety hereby waives notice of any alteration or extension of time made by the Municipality.

Signed and sealed this day of, 20..... .

WITNESS:

SIGNATURES:

CONTRACTOR:

Signature.....

.....

Print Name Legibly

Print Name Legibly

.....

.....

WITNESS:

SIGNATURES SURETY:

Signature.....

Signature.....

Print Name Legibly

Print Name Legibly

NAME OF LOCAL AGENCY:

ADDRESS

TELEPHONE

NAME OF SURETY

SURETY ADDRESS:.....

BOND # _____