

EXHIBIT A

**EQUIPMENT AND SERVICE CONTRACT
BETWEEN
TOWN OF CHEBEAGUE ISLAND, MAINE
AND
CHEBEAGUE.NET, INC.**

This Contract is made and entered into as of December 1, 2011 (the "Effective Date") by and between the Town of Chebeague Island, Maine, hereinafter referred to as the "TOWN", and the below named firm, hereinafter referred to as "CHEBEAGUE.NET."

chebeague.net, Inc.	(207) 846-4126
13 South Road	(207) 712-0349 (cell)
Chebeague Island, ME 04017	(207) 939-9643 (cell)
register@chebeague.net	(207) 882-4456 (fax)

PURPOSE

The purpose of this Contract is to ensure long-term Internet services for the citizens, organizations, and Town of Chebeague Island.

SCOPE OF WORK

CHEBEAGUE.NET will provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

- A. Provide Internet services including bandwidth at speeds to at all times meet or exceed 768 kbps and electronic mail (e-mail) services to the Town of Chebeague Island facilities including but not limited to Town Office, Fire & Rescue, and Law Enforcement.
- B. Provide and install equipment necessary to deliver said Internet services.
- C. Provide and install equipment necessary to the operation of the Town Office network.
- D. Provide maintenance to the Internet and network equipment and operations as needed.
- E. Scope of work does not include supply and/or maintenance of equipment downstream of the Public Safety Building network switch, i.e. computer workstations, printers, copiers, or other network devices. However, CHEBEAGUE.NET personnel may volunteer from time to time to provide instruction and maintenance services.
- F. Provide Internet bandwidth at speeds to at all times meet or exceed 768 kbps at no cost to non-profit organizations based on Chebeague Island where technically possible, as well as e-mail services.
- G. Make available Internet bandwidth at speeds to at all times meet or exceed 768 kbps to all households on Chebeague Island where technically possible, as well as e-mail services.
- H. Make improvements and upgrades to CHEBEAGUE.NET's network infrastructure so as to enable accomplishment of the above deliverables.
- I. Service may at times be interrupted for normal maintenance or due to network malfunctions beyond the control of CHEBEAGUE.NET or the TOWN.

PERIOD OF PERFORMANCE; TERMINATION

Subject to other Contract provisions, the period of performance under this Contract will be from December 1, 2011 through November 30, 2036, unless earlier terminated as provided in this Contract.

The TOWN may terminate this Agreement at any time with or without cause upon sixty days prior written notice.

COMPENSATION/ PAYMENT

TOWN shall pay an amount in the sum of twenty-five thousand dollars (\$25,000) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work for the term of this Contract.

BILLING PROCEDURES

TOWN will pay CHEBEAGUE.NET the compensation/payment in full within thirty (30) days of acceptance of this Contract at Town Meeting or the Effective Date, whichever is later.

CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this Contract.

Contract Manager for CHEBEAGUE.NET is:	Contract Manager for TOWN is:
<p>Chief Executive Officer (currently Beverly S. Johnson) chebeague.net, Inc. 13 South Road Chebeague Island, ME 04017</p> <p>Phone: (207) 846-4126 Fax: (207) 882-4456 E-mail address: register@chebeague.net</p>	<p>Town Administrator (currently Eric Dyer) Town of Chebeague Island 192 North Road Chebeague Island, ME</p> <p>Phone: (207) 846-3148 Fax: (207) 846-6413 E-mail address: TownAdmin@chebeague.net</p>

INSURANCE

CHEBEAGUE.NET shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the town should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of CHEBEAGUE.NET or subcontractors or agents of either, while performing under the terms of this Contract.

CHEBEAGUE.NET shall provide insurance coverage that shall be maintained in full force and effect during the term of this Contract, as follows:

Commercial General Liability Insurance Policy

Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, CHEBEAGUE.NET is responsible for ensuring that any subcontractors provide the same insurance coverage for the activities arising out of subcontracts.

Automobile Liability

In the event that services delivered pursuant to this Contract involve the use of vehicles, owned or operated by CHEBEAGUE.NET, automobile liability insurance shall be required.

The minimum limit for automobile liability is:

\$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

The Town of Chebeague Island, its agents and employees shall be named as additional insureds on the CGL and Automobile policies.

Professional Liability, Errors and Omissions Insurance

CHEBEAGUE.NET shall maintain Professional Liability or Errors and Omissions Insurance. CHEBEAGUE.NET shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all program activities by CHEBEAGUE.NET and licensed staff employed or under contract to CHEBEAGUE.NET. The Town of Chebeague Island, its agents and employees need *not* be named as additional insureds under this policy.

The required insurance shall be issued by an insurance company(s) authorized to do business within the State of Maine. Within 10 days of the TOWN's request, CHEBEAGUE.NET shall provide to the TOWN a certificate of insurance evidencing such coverages and the additional insured status of the TOWN. No insurance required under this Contract will be cancelable or subject to reduction of coverage except upon 30 days prior written notice to the TOWN. All insurance required under this Contract will be written as primary policies and shall not be contributing with or in excess of coverage that is or may be carried by the TOWN.

ASSURANCES

TOWN and CHEBEAGUE.NET each agree that all its activity pursuant to this Contract will be in accordance with all applicable federal, state and local laws, rules, and regulations. Unless agreed otherwise between the parties, CHEBEAGUE.NET shall obtain, at its sole expense, all licenses and permits necessary for it and its employees and subcontractors to perform under this Contract.

CHEBEAGUE.NET warrants that all services provided under this Contract will be performed in accordance with the prevailing professional standards and practices observed in the applicable industry, and that services will not violate or in any way infringe upon the rights of third parties, including proprietary information and non-disclosure rights, or any trademark, copyright or patent rights.

BINDING AND ASSIGNMENT

This Contract is binding to the successors, heirs, and assigns of CHEBEAGUE.NET.

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by CHEBEAGUE.NET without prior written consent of the TOWN.

CHANGE IN STATUS

In the event of substantive change in the legal status organizational structure or fiscal reporting responsibility of CHEBEAGUE.NET, CHEBEAGUE.NET agrees to notify the TOWN of the change. CHEBEAGUE.NET shall provide notice as soon as practicable, but no later than thirty-days after such a change takes effect.

CHANGES AND MODIFICATIONS

The TOWN may, at any time, by written notification to CHEBEAGUE.NET, and without notice to any known guarantor or surety, propose changes within the general scope of the services to be performed under the Contract. If CHEBEAGUE.NET agrees to such changes, a written contract amendment reflecting such change shall be executed by the parties.

An equitable adjustment in cost or period of performance or both may be made if required by the change. Any claim for adjustment in price or period of performance must be received by the TOWN within thirty (30) days of CHEBEAGUE.NET's receipt of the change notice. No cost increase will occur unless agreed to by the TOWN in the written contract amendment.

INDEMNIFICATION

CHEBEAGUE.NET shall indemnify, defend, and hold the TOWN, its officials, employees, subcontractors, and agents, harmless from and against any and all losses, liabilities, claims, damages, actions, lawsuits, judgments, and costs, including reasonable attorneys' fees, arising out of or resulting from injuries to persons or damage to property caused by the acts or omissions of CHEBEAGUE.NET, its employees, subcontractors, or agents in providing the services under this Contract. Exclusively for the purposes of the foregoing indemnity, CHEBEAGUE.NET waives any immunities to which it may be entitled under worker's compensation laws, and assumes potential liability for actions brought by its own employees. This obligation of indemnification shall survive the expiration or termination of this Contract for any reason.

Each party to this Contract shall be responsible for its own acts and/or omissions and those of its officers, employees, subcontractors, and agents.

INDEPENDENT CAPACITY

The parties intend that an independent relationship will be created by this Contract. CHEBEAGUE.NET and his or her or its employees, subcontractors, or agents performing under this Contract are not employees or agents of the TOWN. CHEBEAGUE.NET will not hold himself/herself out as nor claim to be an officer or employee of the TOWN by reason hereof, nor will CHEBEAGUE.NET make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with CHEBEAGUE.NET.

SAFEGUARDING OF INFORMATION

CHEBEAGUE.NET shall hold as strictly confidential and shall not use or disclose any:

- Personal Information gained by reason of this Contract, and
- Information that may be classified as confidential or that, given its nature, should be treated as confidential, except (1) with prior written consent of the TOWN or (2) as may be required by law.

CHEBEAGUE.NET shall safeguard such information using the same degree of care it uses to safeguard its own confidential information of a similar nature, but in no event less than reasonable care, and shall return or certify destruction of the information upon the earlier of the TOWN's request or Contract expiration or termination. All obligations of confidentiality shall survive the expiration or termination of this Contract for any reason.

ENTIRE AGREEMENT

This Contract is the entire agreement of the parties and represents all the terms and conditions agreed upon by the parties. No other understandings or representations oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind the parties.

SEVERABILITY

If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract that can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Contract, and to this end the provisions of this Contract are declared to be severable.

CONFORMANCE

If any provision of this Contract violates any statute or rule of law of the State of Maine, it is considered modified to conform to that statute or rule of law.

APPROVAL

This Contract shall be subject to approval by the citizens of the Town of Chebeague Island assembled in Town Meeting and shall not be binding until so approved. The Contract may be altered, amended or waived only by a written amendment executed by both parties.

ARBITRATION

Except only for disputes for which injunctive relief is necessary to prevent irreparable harm to the rights or property of a party, any disputes between the TOWN and CHEBEAGUE.NET shall be submitted to binding arbitration in accordance with the then prevailing Commercial Arbitration rules of the American Arbitration Association. The location of the arbitration will be mutually agreed to by the parties, but in all events will be within a radius of 25 miles from Chebeague Island. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

WAIVER

A party's failure at any time to enforce any of the provisions of this Contract will not be construed to be a waiver of such provision or rights, or to affect the validity of this Contract. The exercise by a party of any right under the terms or covenants in this Contract will not preclude or prejudice the continued existence of the same or other rights under this Contract.

REMEDIES

All remedies available to either party for breach of this Contract are cumulative and may be exercised concurrently or separately, and the exercise of any single remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

NOTICES

Any notice or other communication under this Contract shall be in writing, and in the case of a notice required by the terms of this Contract, shall be delivered in person, by certified first class mail, return receipt requested, postage prepaid, or by overnight courier providing evidence of delivery. Such notice shall be deemed received when actually received or refused by the party to which it is addressed.

THIS CONTRACT, consisting of 5 pages, is executed by the persons signing below who warrant that they have the authority to execute the Contract.

Beverly S. Johnson,
chebeague.net, Inc.

Eric Dyer,
Town of Chebeague Island

Signature

Signature

Chief Executive Officer

Town Administrator

Title _____

Title _____

Date

Date

EXHIBIT B

Town of Chebeague Island Code of Ordinance
Chapter 14 – Public Safety
Article II – Firearms

FIREARMS ORDINANCE

of the Town of Chebeague Island
MAINE

Adopted by the Town Meeting:
Effective:

Attest:

Town Clerk

Seal:

Town of Chebeague Island Code of Ordinance
Chapter 14 – Public Safety
Article II – Firearms

SECTION 101. TITLE

This ordinance shall be known and may be cited as "Firearms Ordinance" of the Town of Chebeague Island hereinafter referred to as "this ordinance".

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this ordinance is to promote public safety protect life and property from improper use of firearms as defined in 17-A M.R.S.A. §2 (12-A). This Ordinance is adopted pursuant to 30-A M.R.S.A. §3001 and 25 M.R.S.A. §2011(3).

SECTION 103. ORDINANCE

No person may discharge a firearm in the Town of Chebeague Island except that it is not a violation of this ordinance to discharge the following firearms in conformity with State laws:

1. Shotguns, Black Powder Guns, and 22 Caliber Rimfire Guns;
2. Firearms used in defense of life, property, or livestock according to 17-A M.R.S.A. §108 and 12 M.R.S.A. §§12401 – 12404;
3. Firearms used by law enforcement personnel in carrying out their proper duties;
4. Firearms used in target practice on a person's own land so long as there is no danger to others, or firearms used in target practice on land of others so long as there is no danger to others and permission has been given by the landowner; or
5. Firearms used in properly administered educational programs in schools and other locations as provided for in 20-A M.R.S.A. §6552.

SECTION 104. ENFORCEMENT AND PENALTIES

This ordinance shall be enforced by the Town's authorized police officer(s) or members of the Board of Selectmen. Each violation of this ordinance shall be punishable by a fine of at least \$50.00 but no more than \$1,000.00.

SECTION 105. AMENDMENTS

This Ordinance may be amended by Town Meeting.

Town of Chebeague Island Code of Ordinance
Chapter 14 – Public Safety
Article II – Firearms

SECTION 106. SEVERABILITY

Should any portion of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining portions shall remain in full force and effect.

EXHIBIT C

Town of Chebeague Island Code of Ordinances
Chapter 15 – Buildings
Article I – Building Codes

BUILDING CODES; ADOPTION AND ENFORCEMENT ORDINANCE

of the Town of Chebeague Island
MAINE

Adopted by the Town Meeting:

Effective:

Attest:

Town Clerk

Seal:

SECTION 101. TITLE

This ordinance shall be known and may be cited as the “Building Codes; Adoption and Enforcement Ordinance of the Town of Chebeague Island” hereinafter referred to as "this Ordinance".

SECTION 102. PURPOSE

The purpose of this Ordinance is to protect life and property from hazards incident to improper construction, installation, modification, or use of structures and appliances as specified in Section 103 of this Ordinance. This Ordinance is adopted pursuant to 30-A M.R.S.A. §3009 and 10 M.R.S.A. §9724.

SECTION 103. SCOPE OF ORDINANCE

This Ordinance shall apply to the construction, installation, modification, or use of residential, commercial, and public structures, and any associated electrical equipment, plumbing, appliances designed or used to burn solid fuel (wood, coal, or any combustible solid matter) for the purpose of heating or cooking, and subsurface wastewater disposal structures or equipment as covered in the codes and standards referred to in Sections 104 – 111 of this Ordinance.

SECTION 104. ADOPTION OF THE MAINE MODEL BUILDING CODE.

The *Maine Uniform Building and Energy Code* is adopted by the Town of Chebeague Island to establish regulations governing the construction and repair of residential, commercial and public structures.

SECTION 105. ADOPTION OF THE NATIONAL FIRE PROTECTION ASSOCIATION LIFE SAFETY CODE.

The National Fire Protection Association’s *Life Safety Code* (2006) is adopted by the Town of Chebeague Island to establish the construction, protection, and occupancy requirements needed to minimize threat to life from fire and related dangers including smoke, fumes, or panic.

SECTION 106. ADOPTION OF THE NATIONAL FIRE PROTECTION ASSOCIATION SOLID FUEL SAFETY STANDARDS.

The *National Fire Protection Association’s (NFPA) Standard 211, “Chimneys, Fireplaces, Vents, and Solid Fuel Burning Appliances,” (2003 Edition)* is adopted by the Town of Chebeague Island. An installation of solid fuel burning appliances shall be deemed proper when it conforms to the standards contained therein. These standards may be superseded by manufacturers’ specifications for installation of their UL-listed appliances.

SECTION 107. ADOPTION OF THE U.S. ENVIRONMENTAL PROTECTION

AGENCY’S OUTDOOR WOOD-FIRED BOILER STANDARDS.

The United States Environmental Protection Agency’s Outdoor Wood-fired Hydronic Heater (OWHH) Phase II Program (released October 23, 2008), as adopted by the Maine Department of Environmental Protection, is adopted by the Town of Chebeague Island. The installation and usage of outdoor solid fuel burning furnaces or boilers used for heating shall be deemed proper when it conforms to the standards contained therein.

SECTION 108. ADOPTION OF THE NATIONAL FIRE PROTECTION ASSOCIATION NATIONAL ELECTRICAL CODE.

The National Fire Protection Association’s *National Electrical Code (2005)* and *ANSI C2-2002 National Electrical Safety Code* is adopted by the Town of Chebeague Island to regulate the installation of electrical conductors, equipment and raceways, signaling and communications conductors, equipment and raceways, and optical fiber cables and raceways in all property, buildings, and structures. These codes cover all installations used by the electric utility that are not an integral part of a generating plant, substation or control center.

SECTION 109. ADOPTION OF THE MAINE STATE INTERNAL PLUMBING CODE.

The *Maine State Internal Plumbing Code* is adopted by the Town of Chebeague Island to regulate plumbing on the island, and all plumbing installed on the island and all permits issued shall conform to the rules and regulations of the state department of human services regarding plumbing issued under authority conferred by state law.

SECTION 110. ADOPTION OF THE MAINE SUBSURFACE WASTE WATER DISPOSAL RULES.

The *Maine Subsurface Waste Water Disposal Rules* are adopted by the Town of Chebeague Island to establish the minimum design criteria for subsurface wastewater disposal to assure environmental sanitation and safety.

SECTION 111. SUCCESSOR CODES, REGULATIONS, AND STANDARDS

Codes, standards, and regulations specified in Sections 104 – 110 shall remain in effect until such time as they are replaced by their sponsoring agencies or organizations with revised versions, at which time the Town of Chebeague Island shall be considered to have adopted said revisions unless it specifically stipulates otherwise by amending this ordinance.

SECTION 201. PERMITS AND FEES

Any person intending to construct, install, or modify structures, appliances, or other entities covered under the codes and standards listed in Sections 104 - 111 of this ordinance must obtain the necessary permit form from the Town Clerk and submit it to the Code Enforcement Officer for

Town of Chebeague Island Code of Ordinances
Chapter 15 – Buildings
Article I – Building Codes

approval before construction, installation, or modification commences. A satisfactory inspection that requirements have been met shall be completed before any structure or appliance is put into use.

Permit fees, if any, are as set forth in the Board of Selectmen Schedule of Fees in accordance with Ch. 11 Art. II Sec. 109(S) of the Town Code of Ordinances.

SECTION 202. INSPECTION AND ENFORCEMENT

The Code Enforcement Officer of the Town of Chebeague Island shall have responsibility for conducting inspections and enforcing the Town of Chebeague Island Building, Energy Fire Prevention, Electrical, Plumbing, Solid Fuel Safety, Property Maintenance, and Wastewater Disposal codes, regulations, and standards as adopted pursuant to Sections 104 – 111 of this Ordinance.

SECTION 203. ADMINISTRATION

Written and/or electronic records of permits, inspections, and approvals shall be maintained by the Town Clerk.

SECTION 204. AMENDMENTS

This Ordinance may be amended by Town Meeting.

SECTION 205. SEVERABILITY

Should any portion of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining portions shall remain in full force and effect.

EXHIBIT D

DOG CONTROL ORDINANCE

of the Town of Chebeague Island
MAINE

Adopted by the Town Meeting:
Effective:

Attest:

Town Clerk

Seal:

Town of Chebeague Island Code of Ordinances
Chapter 19 – Public Health and Welfare
Article II – Dog Control

SECTION 101. TITLE

This Ordinance shall be known as and may be cited as the “Dog Control Ordinance for the Town of Chebeague Island, Maine,” and shall be referred to herein as “this Ordinance”.

SECTION 102. PURPOSE AND AUTHORITY

The purpose of this Ordinance is to provide regulations in addition to those contained in Title 7 of the Maine Revised Statutes . with respect to controlling dogs throughout the Town of Chebeague Island in the interest of the health, safety and general welfare of its residents, visitors, domestic and farm animals, and wildlife. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001.

Note that 7 M.R.S.A. §§3901 - 4163 comprise the state's dog laws with provisions for licensing requirements and the disposition of loose or dangerous dogs, among others.

SECTION 103. DEFINITIONS

a) **“At Large”** means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal. A dog loose, leading or following the person in charge, more than thirty feet away and/or not within sight so that the person is not able to exercise full control over the dog, is also “at large”.

b) **Dangerous dog** means a dog that bites an individual or a domesticated animal not trespassing on the dog owner's or keeper's premises at the time of the bite, or a dog that causes a reasonable and prudent person who is not on the dog owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear imminent bodily injury by assaulting or threatening to assault that individual or individual's domestic animal. ‘Dangerous dog’ does not include a dog certified by the State and used for law enforcement use. ‘Dangerous dog’ does not include a dog that bites or threatens to assault an individual who is on the dog owner's or keeper's premises if the dog has no prior history of assault and was provoked by the individual immediately prior to the bite or threatened assault. For the purposes of this definition, ‘dog owner's or keeper's premises’ means the residence or residences, including buildings, land, and motor vehicles, belonging to the owner or keeper of the dog.

c) **Owner** means a person owning, keeping or harboring a dog or other animal.

d) **Keeper** means someone with care, custody, or control of a dog. One becomes the ‘keeper’ of a dog only when he either with or without the owner's permission undertakes to manage, control, or care for it as dog owners customarily do.

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Chapter 19 – Public Health and Welfare
Article II – Dog Control

e) **Securely confined** means use of a building, heavy duty dog run, or fenced area, not including an area enclosed only by an electronic invisible perimeter fence, from which a dog can not escape.

f) All definitions contained in 7 M.R.S.A. § 3907, other than the definitions for terms specified above, are incorporated herein.

g) Any words not otherwise defined shall be given their common and ordinary meaning.

SECTION 104. LICENSE

No dog shall be kept within the limits of the Town of Chebeague Island unless it is duly licensed by its owner in accordance with the statutes of the State of Maine.

SECTION 105. DOG CONTROL

a) No person owning or keeping a dog within limits of the Town of Chebeague shall permit it to be at large.

b) A dog exercising, running, strolling, or swimming on a beach while off leash must be kept under close supervision and must have the full attention of its owner or keeper.

c) A person owning or keeping a dangerous dog must keep said dog securely confined or muzzled when on the owner's or keeper's property, and controlled on a strong leash no longer than 6 feet when not on the owner's or keeper's property.

d) No person owning or keeping a dog shall permit, by its loud, frequent, or habitual barking, howling, or yelping, to disturb the peace of any other person or persons.

e) It shall be the duty of any owner or keeper of a dog or anyone in possession or control of a dog to remove and dispose of, in a safe and healthful manner, any waste left by the animal on any street, roadside, beach (above and below the high tide mark), publicly owned property, or private property where that person does not have permission of the owner to leave waste.

This subsection (e) shall not apply to a dog accompanying any handicapped person, who, by reason of the handicap, is physically unable to comply with the requirements of this section.

f) Persons owning or keeping a dog must ensure that said dog wears a collar having an identification tag providing owner or keeper contact information, as well as current rabies vaccination tags.

Town of Chebeague Island Code of Ordinances
Chapter 19 – Public Health and Welfare
Article II – Dog Control

SECTION 106. ADMINISTRATION AND ENFORCEMENT

This Ordinance shall be administered by the Town Administrator and may be enforced by the Animal Control Officer or law enforcement officer with jurisdiction in the Town of Chebeague Island.

SECTION 107. PENALTIES

- a) Violations of state law shall be subject to the penalties set forth in Title 7 of the Maine Revised Statutes.
- b) Violations of other provisions of this Ordinance, including dog waste removal provisions, shall be subject to a civil penalty of at least \$50 but not more than \$250 for the first offense and at least \$100 but not more than \$500 for each subsequent offense.

SECTION 108. AMENDMENTS

This Ordinance may be amended by Town Meeting at any properly noticed meeting.

SECTION 109. SEVERABILITY

In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

EXHIBIT E

30-A §2528. SECRET BALLOT

30-A §2528. SECRET BALLOT

The following provisions govern a town's use of a secret ballot for the election of town officials or for municipal referenda elections. A vote by secret ballot takes precedence over a vote by any other means at the same meeting. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A town may accept only the provisions of subsection 4, relating to the nomination of town officials, as provided in section 2527. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

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. 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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

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. 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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[2003, c. 569, §1 (AMD) .]

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. [1995, c. 102, §1 (AMD) .]

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. [1991, c. 83, §1 (AMD) .]

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. [1993, c. 608, §6 (AMD) .]

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. [1993, c. 608, §6 (AMD) .]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1995, c. 102, §1 (AMD) .]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

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. [2003, c. 569, §2 (NEW) .]

[2003, c. 569, §2 (AMD) .]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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. [1991, c. 83, §2 (AMD) .]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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 (). [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

E. Words of explanation such as "Vote for one" and "Vote yes or no" may be printed on the ballot. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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. [1993, c. 608, §7 (AMD).]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

H. Ten or more specimen ballots printed on paper of a distinctive color without the endorsement of the clerk shall be provided. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

J. The ballots and specimen ballots shall be packed in sealed packages with marks on the outside specifying the number of each enclosed. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1993, c. 608, §7 (AMD) .]

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. [1993, c. 608, §8 (NEW).]

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. [1993, c. 608, §8 (NEW) .]

C. The municipal clerk shall ensure that new ballots are produced, if necessary, to reflect the withdrawal of a candidate from an elective race. [1993, c. 608, §8 (NEW) .]

[1993, c. 608, §8 (NEW) .]

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 testing 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.

[2007, c. 19, §1 (NEW) .]

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.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

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. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

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.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

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.

[1997, c. 733, §1 (AMD) .]

SECTION HISTORY

1987, c. 737, §§A2, C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A18-20, C8, C10 (AMD). 1991, c. 83, §§1,2 (AMD). 1991, c. 323, (AMD). 1993, c. 608, §§6-8 (AMD). 1995, c. 13, §1 (AMD). 1995, c. 102, §1 (AMD). 1997, c. 733, §1 (AMD). 2003, c. 569, §§1,2 (AMD). 2007, c. 19, §1 (AMD).

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EXHIBIT F



