

STATE OF MAINE  
SUPREME JUDICIAL COURT  
SITTING AS THE LAW COURT

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KIMBERLY (Houle) LAMARRE  
AND  
ANTHONY LAMARRE  
**Plaintiffs - Appellees**  
v.  
TOWN OF CHINA  
And  
NICHOLAS NAMER and  
MARIE BOURQUE-NAMER  
**Defendants - Appellants**

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**APPENDIX**  
**Law Court Docket No. Ken-20-134**

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## APPENDIX

### TABLE OF CONTENTS

<u>Document</u>	<u>Page</u>
1. Docket Entries, Kennebec Superior Court (11/13/2019 – 6/8/2020) .....	1
2. Trial Court Decision on Appeal (dated 4/3/2020) .....	3
3. Complaint (dated 11/8/2019) .....	15
4. Board of Appeals Decision (dated 10/18/19) .....	20
5. CEO Decision .....	22
6. Copy of Relevant Sections of Town of China Ordinance .....	24
a. Town of China Ordinance, Chapter 1 .....	24
b. Town of China Ordinance, Chapter 2 .....	26
c. Town of China Ordinance, Chapter 4 .....	89
d. Town of China Ordinance, Chapter 5 .....	94
e. Town of China Ordinance, Chapter 9 .....	105
f. Town of China Ordinance, Chapter 10 .....	112
g. Town of China Ordinance, Chapter 11 .....	115
7. CEO permit application .....	139
8. CEO Permit .....	159
9. Photograph of Original Trailer.....	160
10. Photograph of Namer Trailer .....	161
11. Color Photograph of Original Trailer .....	162

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Action: 80B

**J. Stokes**

Kimberly Lamarre, et al.

vs

Town of China, et al.

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Date of Entry

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11/13/19	Petition for Review of Governmental Body Action, filed (11/12/19). s/Bearor, Esq.
11/13/19	Notice & Briefing Schedule, issued Copy to parties/counsel
12/02/19	Summons/Service on Town of China. Served 11/12/19. Filed 11/18/19.
12/02/19	Entry of Appearance for Town of China, filed (11/25/19). s/Meader, Esq.
12/23/19	Record of Proceedings, filed. s/Wagner, Esq.
12/23/19	Petitioner's Rule 80 B Brief, filed. s/Wagner, Esq.
01/15/20	Defendant's Brief, filed (1/14/20). s/Namer, Pro Se
01/22/20	Consent Motion to Enlarge Time to File Brief, filed (1/15/20). s/Small, Esq.
01/22/20	Letter stating there is no objection to Motion to Enlarge, filed (1/17/20). s/Small, Esq.
01/23/20	ORDER, Stokes, J. (1/22/20) Motion to Enlarge Time to File Brief is GRANTED. Brief due 2/3/20
01/27/20	Original Summons for Nicholas Namer, filed (1/24/20). s/Bearor, Esq. Served 1/15/20

01/27/20 Original Summons for Marie Bourque-Namer, filed (1/24/20). s/Bearor, Esq.  
Served 1/15/20

01/27/20 Motion to Modify Record and Objection to and Motion to Strike Defendant Nicholas Namer's Submission of References, filed (1/24/20). s/Bearor, Esq.

02/03/20 Plaintiff's Reply to Defendant Namer's Brief, filed (1/29/20). s/Wagner, Esq.

02/03/20 Town of China's Appeal Brief, filed. s/Meader, Esq.

02/24/20 Plaintiff's Reply to Town of China's Appeal Brief, filed (2/20/20). s/Wagner, Esq.

02/26/20 ORDER, Stokes, J. (2/25/20)  
Motion to Modify Record is GRANTED

02/26/20 ORDER, Stokes, J. (2/25/20)  
Plaintiff's Objection to and Motion to Strike Defendant Nicholas Namer's Submission of References is GRANTED

03/17/20 Returned mail to Amanda Meader, Esq, Order on Motion to Enlarge Time to file Defendant's Brief

04/03/20 DECISION AND ORDER, Stokes, J. (4/2/20)  
The Plaintiff's Rule 80B appeal is GRANTED. The Decision of the China Land Use Board of Appeals is REVERSED and the CEO permit #2018-21 is VACATED.  
Copy to parties/counsel and repositories

04/03/20 Notice of Removal of Record sent

04/03/20 Case closed

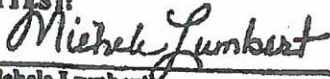
04/22/20 Notice of Appeal and filing fee, filed (4/17/20). s/Small, Esq.  
Notice of Appeal sent to Law Court

04/22/20 Notice of Appeal, Entry of Appearance for Nicholas Namer and filing fee, filed (4/21/20). s/Namer, Pro Se  
Notice of Appeal sent to Law Court

05/06/20 Notice of Docketing in the Law Court, filed (5/4/20)  
Law Court Docket Number Ken-20-134  
File due in Law Court by 5/22/20

05/29/20 File temporarily transferred to Law Court on appeal

06/08/20 Receipt of Clerk's Record in Law Court

A true copy  
ATTEST:  
  
Michèle Lambert  
Clerk of Courts

STATE OF MAINE  
KENNEBEC, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. AP-19-50

KIMBERLY (HOULE)  
LAMARRE and ANTHONY  
LAMARRE,  
Plaintiffs

DECISION AND ORDER

v.

TOWN OF CHINA  
and  
NICHOLAS NAMER and  
MARIE BOURQUE-NAMER,  
Defendants

INTRODUCTION

This matter is before the court on an appeal by Kimberly (Houle) and Anthony LaMarre from the decision of the Land Use Board of Appeals of the Town of China. The Board upheld the after-the-fact issuance of a permit by the Town's Code Enforcement Officer (CEO) to Nicholas Namer to place a "Park Model" trailer on his property, which abuts the LaMarres' property. The appeal has been brought in accordance with M.R.Civ.P. 80B.

FACTUAL AND PROCEDURAL BACKGROUND

The essential facts of this controversy do not appear to be in dispute.

The LaMarres have owned their property in China, Maine since 1969. They abut the property owned by Mr. Namer, who acquired his lot in 2018. The Namer property is a non-conforming lot and has 5 seasonal camps on it. The prior owner of the Namer lot occasionally located a "camper" in the south-easterly section of the

property. A photograph of that camper is part of the record on appeal. (Record, "R" at 192).

In July 2018, Mr. Namer placed a "Park Model" trailer on the south-westerly section of his property. The dimensions of this trailer are: 40' 9" in length (including a hitch); 12' (or 144 inches) in width, with a shipping weight of 20,016 pounds. It is equipped with 6 wheels. The trailer is of wood frame construction with a pitched roof. It has a bedroom, a bath, a kitchen and a living area, with a total area of 399 square feet. (R. at 183-185). To install the trailer, Mr. Namer removed trees and vegetation from the area. No permit was sought or obtained by Mr. Namer before the trailer was placed on the property. A photograph of the trailer has been made part of the record on appeal. (R. at 126).

After the trailer was placed on the Namer property, the LaMarres complained about it to the Town's CEO, Paul Mitnick. On July 21, 2018, the CEO issued a "Notice of Violation" (NOV) to the Namers for failing to obtain a permit. A copy of the NOV was not provided to the LaMarres, notwithstanding their request for information from the CEO. (R. at 128, 149). Ms. LaMarre contacted the CEO again on August 8, 2018 when the trailer had been not been moved by that time. She received no response. On August 15, 2018, Ms. Namer applied for a CEO permit to "relocate the campsite previously located on the east side of the property," using the same septic system. The stated purpose of the relocation was "property oversight." (R. at 129). The application stated that the "camper" was a "park model" and would be "occupied less than 120 days a year." *Id.*

The LaMarres were not informed of the Namer permit application. On August 20, 2018, Ms. LaMarre again contacted the Town about her complaint, but again received no response. On August 21, 2018, CEO Mitnick issued a permit to Mr. Namer "to locate a camper pursuant to the application." (R. at 151). His written decision in support of the issuance of the permit appears to be dated August 9, 2018.

(R. at 149-50). In that decision, the CEO rescinded the NOV previously issued to the Namers, after "more carefully investigating facts and Ordinance requirements." The CEO recognized that the Namer lot is non-conforming but grandfathered. He noted that the non-conformity could continue "as long as conditions do not become more non-conforming." He then concluded:

Although the current structure moved unto [sic] the lot has the appearance of a mobile home, the state regulations would not consider this a manufactured home due to the fact that it was not constructed in compliance with HUD standards.

The CEO determined that "[t]he structure meets the definition of an RV included within Chapter 11 of the China Land Development Code since

- It can be towed by a motor vehicle (A one ton pickup is a motor vehicle)
- Is built on a single chassis
- Is less than 400sf (actual size is 399sf)
- Its wheels are placed on the ground
- It is registered with the State Dept of Motor Vehicles
- It will be used as temporary living quarters (No more than 120 days per year)"

The CEO also recognized that the China Land Use Code allowed one recreational vehicle "to be placed on a private campsite" for up to 120 days. He interpreted "placed . . . as meaning occupied since most RV are parked on a lot for more than 120 days when not being used." (R. at 150).

The LaMarres were unaware that the CEO had issued a permit to Mr. Namer, as they were not notified of Mr. Namer's application, the CEO's written decision or the permit itself. From the record evidence, it appears that the LaMarres assumed

that the Namers had placed the trailer without a permit and the Town was not doing anything about it.

The following July of 2019, Mr. LaMarre met with the Town Manager about the Town's failure to respond to their requests for information. The LaMarres later learned from the Town Manager and the new CEO (William Butler) that a permit had, in fact, been issued. On July 8, 2019, CEO Butler informed the LaMarres that he had visited the Namer property and agreed with the decision to issue a permit because the trailer qualified as a recreational vehicle. He also informed the LaMarres, however, that due to the failure to provide them with notice of the original decision to grant the permit, they could appeal to the Board of Appeals. CEO Butler did not issue a new written decision.

The LaMarres did file an administrative appeal on August 6, 2019. Although the Namers, through counsel, moved to dismiss the appeal as untimely, the Board held that the appeal was timely, but ultimately denied it on September 26, 2019. The Board, sitting in an appellate capacity only, found that the "Park Model" trailer placed on the Namer lot appeared to meet "the structural requirements for recreational vehicles." Moreover, the Board concluded that the Namers had "attempted to meet the requirements of the town and have had the use of the camper for over a year." (R. at 237). As a result, the Board upheld the validity of the permit.

This timely Rule 80B appeal followed. The matter has been fully briefed, which was completed on February 20, 2020. In accordance with the "Revised Emergency Order" issued by the Supreme Judicial Court on March 18, 2020 regarding court safety and the coronavirus, and pursuant to M.R.Civ.P. 80B(1) this matter will be decided on the briefs without oral argument.

#### STANDARD OF REVIEW

In an appellate capacity, the Superior Court reviews a municipality's decision directly for errors of law, findings not supported by the evidence in the record, or an



abuse of discretion. *Tenants Harbor Gen. Store, LLC v. Dep't of Envtl. Prot.*, 2011 ME 6, ¶ 8, 10 A.3d 722. The party asserting an error in a Rule 80B appeal bears the burden of showing that error before the court. *Quiland, Inc. v. Wells Sanitary Dist.*, 2006 ME 113, ¶ 16, 905 A.2d 806. A decision is supported by substantial evidence “when a reasonable mind would rely on that evidence as sufficient support for a conclusion.” *Phaiah v. Town of Fayette*, 2005 ME 20, ¶ 8, 866 A.2d 863 (quotations omitted) (citing *Forbes v. Town of Southwest Harbor*, 2001 ME 9, ¶ 6, 763 A.2d 1183). The court may not substitute its judgment for that of the municipal decision-maker on questions of fact, and may not determine that an agency’s decision is wrong “because the record is inconsistent or a different conclusion could be drawn from it.” *Phaiah*, 2005 ME 20, ¶ 8, 866 A.2d 863.

A municipal board’s interpretation of an ordinance, however, is a question of law that the court reviews *de novo*. *Aydelott v. City of Portland*, 2010 ME 25, ¶ 10, 990 A.2d 1024 (citing *Logan v. City of Biddeford*, 2006 ME 102, ¶ 8, 905 A.2d 293). The court must “examine the plain meaning of the language of the ordinance” and reasonably construe its terms “in light of the purposes and objectives of the ordinance and its general structure.” *Stewart v. Town of Sedgwick*, 2002 ME 81, ¶ 6, 797 A.2d 27. The Law Court has recently reminded us that “[b]ecause zoning ordinances, like statutes, derogate from common law, they are ‘strictly construed.’” *Grant v. Town of Belgrade*, 2019 ME 160, ¶ 14, \_\_\_A.3d \_\_\_.

There appears to be no dispute between the parties that the operative decision for the court to review is the written decision by CEO Mitnick upon which the issuance of the permit was based.

DID THE BOARD OF APPEALS HAVE JURISDICTION TO ENTERTAIN  
THE APPEAL?

In their brief to the court, the Namers appear to challenge the timeliness of the appeal filed by the LaMarres to the Board of Appeals and, accordingly, the jurisdiction of the Board to hear that appeal.

There can be no question that the LaMarres did not file an appeal within 30 days of the issuance of the permit to the Namers by CEO Mitnick in August 2018. On the other hand, their appeal was timely if viewed as being taken from the decision of CEO Butler that the permit was properly issued.

The Law Court has recognized that there may be unique circumstances where an untimely appeal should be allowed to proceed because there is good cause to do so to prevent a flagrant miscarriage of justice. *See Viles v. Town of Embden*, 2006 ME 107, 905 A.2d 298; *Brackett v. Town of Rangeley*, 2003 ME 109, 831 A.2d 422.

In this case, the court agrees that such good cause exists. The LaMarres made persistent efforts to obtain information from the Town about the status of the Namer trailer and what the Town's CEO was doing about it. On numerous occasions, they received no response at all from the Town. They received no notice that a permit had been issued to Mr. Namer, even though they were abutters to the Namer lot. They reasonably assumed that no permit had been issued, but that the Town was not going to do anything about it. It was not until a year later, when the trailer was still there, that the LaMarres finally learned from a new CEO that a permit had already been issued.

Considering all of the circumstances of this case and the equities of the situation, the court agrees that the Board of Appeals had jurisdiction to entertain the LaMarres' appeal.

**IS THE PARK MODEL TRAILER A RECREATIONAL VEHICLE AS  
DEFINED IN THE LAND USE ORDINANCE?**

The central question in this dispute is whether Mr. Namer's Park Model trailer is a "recreational vehicle" within the meaning of the China Land Use Ordinance. The Ordinance allows for "individual private campsites," (R. at 39), which are defined as "[a]ny premises providing temporary accommodation in a recreational vehicle or tent and used exclusively by the owner of the property and his or her family and friends." (R. at 102). Prior to establishing such a campsite, "[a] permit is required from the CEO . . . ." (R. at 39).

The Ordinance defines "Recreational Vehicle" as:

A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles. (R. at 108) (emphasis supplied).

Invoking the maxim of statutory interpretation known as *ejusdem generis*, the LaMarres argue that to qualify as an RV under the Ordinance, it must be similar to the types of items specifically identified in the definition. They further argue that the Park Model trailer is totally unlike the examples in the definition, because it is not designed to be towed as an attachment like the examples are, but is prohibited (due to its width) from being towed on the public ways without a special permit. 29-A M.R.S. §2380 et seq.

The Town, on the other hand, asserts that *ejusdem generis* is inapplicable here because the definition of recreational vehicle in the Ordinance is clear and unambiguous. According to the Town, Mr. Namer's Park Model trailer meets every element of the definition of a recreational vehicle.

Before addressing the question of whether the Park Model trailer is an RV, as defined, the court would note that the parties have devoted considerable argument on the issue of whether the Park Model trailer is or is not a manufactured home, a modular home or a mobile home. The court's task here is only to determine whether the CEO committed legal error in concluding that the Namer Park Model trailer met the definition of an RV under the Town Ordinance. For purposes of this Rule 80B appeal, it is the Town's definition of an RV that controls.

In *Penobscot Nation v. Stilphen*, 461 A.2d 478, 489 (Me. 1983), the Law Court applied the rule of *ejusdem generis*, and described it in the following terms: "By the familiar *ejusdem generis* rule, a general term followed by a list of illustrations is ordinarily assumed to embrace only concepts similar to those illustrations." The description of this rule of construction has been cited with approval by several subsequent Law Court opinions. See, e.g., *New Orleans Tanker Corp.*, 1999 ME 67, ¶ 7, 728 A.2d 673; *Henry Banks v. Maine RSA#1*, 1998 ME 272, ¶ 7, 721 A.2d 655; *Clarke v. Olsten Certified Healthcare Corp.*, 1998 ME 180, ¶ 6, 714 A.2d 823; *Buker v. Town of Sweden*, 644 A.2d 1042, 1044 (Me. 1994).

There are also cases that state the rule of construction in the reverse order. For example, in *State v. Ferris*, 284 A.2d 288, 290 (Me. 1971), the Court described the rule as follows:

When words of enumeration are immediately followed by words of general import the general words, when their use is unclear, should be governed by the specific.

*See also New Orleans Tanker, supra; Carey v. Commissioner of Corrections* 95 N.E.3d 220, 223, n. 6 (Mass. 2018) ("Ejusdem generis does not apply here because rather than beginning with specific terms, this list begins with a general term, . . . , then provides nonexclusive examples.").

It is also true, however, that the maxim of *ejusdem generis* has “no application to an unambiguous statute, and should not be used to defeat the clear expression of an intent to include.” *Young v. Greater Portland Transit Dist.*, 535 A.2d 417, 418, n. 2 (Me. 1987) (citations omitted). This is consistent with the fundamental principle that “[i]f an ordinance is clear on its face we will look no further than its plain meaning.” *Grant*, 2019 ME 160, ¶ 14.

The Town maintains that the Ordinance is clear and unambiguous as to the definition of a recreational vehicle, and the Park Model trailer easily fits within that definition. In particular, the Town and Mr. Namer contend that the Park trailer is: an attachment designed to be towed since it is equipped with a hitch and 6 wheels; is designed for temporary sleeping quarters; the illustrative examples are merely permissive; the trailer has its tires on the ground and is registered with the Division of Motor Vehicles.

The LaMarres, for their part, insist that the definition of recreational vehicle as contained in the Ordinance is reasonably susceptible to different interpretations and is, therefore, ambiguous. *Acadia Ins. Co. v. Buck Constr. Co.*, 2000 ME 154, ¶ 9, 756 A.2d 515. Specifically, they point to the fact that the Town recognizes that “RV” manufacturers are building products that more closely resemble manufactured homes, which was not the type of trailer intended to be treated as a recreational vehicle under the Land Use Ordinance. In addition, they emphasize that CEO Mitnick himself originally believed the Park Model trailer was a mobile home, before changing his opinion.

In the court’s view, the critical issue is what is intended by the phrase: “an attachment to a vehicle designed to be towed.” One way of looking at this phrase is that it includes any trailer built/constructed/designed so that it can be towed by a vehicle, regardless of its size or the ease of moving it. In other words, so long as it was “designed” so that it could be towed, it is a recreational vehicle under the

Ordinance. Another way of looking at that phrase , however, is that it was intended to describe those trailers/attachments to a vehicle designed for the very purpose of being towed from place to place with relative ease. The court concludes that the definition of “recreational vehicle” in the China Land Use Ordinance is reasonably susceptible to more than one interpretation and is, therefore, ambiguous. Accordingly, it is appropriate to at least consider the application of the *ejusdem generis* rule of construction.

From the court’s perspective, the list of examples explicitly mentioned in the Ordinance provides helpful insight into what the enactors of the definition intended. Those illustrations are a pick-up camper, travel camper, tent trailer and camp trailer and motor home – all motor vehicles or attachments to a motor vehicle that by their very design are easily towed from location to location on the public ways. Utilizing the rule of *ejusdem generis* as a guide to interpreting the Ordinance, it is reasonable to conclude that the drafters and enactors of the definition of “recreational vehicle” intended to include only those attachments to a motor vehicle that are similar to the examples listed.

The Park Model trailer that was permitted by the CEO in this case, is not similar at all to the examples listed in the definition of “recreational vehicle.” Although it has a hitch and 6 wheels and, therefore, can be attached to a motor vehicle and be towed, it is not “designed to be towed” in the same way as the pick-up camper, travel trailer, tent trailer or camp trailer are. Indeed, at 144 inches in width, it exceeds by 3.5 feet the maximum width allowed by 29-A M.R.S. §2380(3) to be “operated on a public way or bridge,” and requires a special permit to do so. 29-A M.R.S. §§2381-2382. The examples of attachments identified in the definition of “recreational vehicle” are all of a type that may be characterized as campers, which are intended to be placed on a private campsite. The Park Model trailer bears little, if any, resemblance to those types of attachments. *Compare* R. at 126 with

192. Even its name – Park Model trailer – implies that it is intended to be placed in a trailer park, not a campsite.

The Town argues that the list of examples is merely permissive – “and which may include . . .” – and, therefore, only “optional or discretionary.” *Town’s Brief at 3-4 citing State v. Wilson*, 264 S.E.2d 414, 416 (S.C. 1980) and *Carey v. Commissioner of Corrections*, 95 N.E. 3d 220, 223-24 (Mass. 2018). But those cases are fundamentally different than this one. In *Wilson* the court rejected the argument that a list of probation conditions should be limited by application of the principle of *ejusdem generis*, where the statute authorized the imposition of probation conditions and “may include among them any of the following *or any other*.” 264 S.E.2d at 414 (emphasis added). Similarly, in *Carey* the court held that a prison superintendent’s authority to establish search procedures at the institution to prevent smuggling by visitors, did not preclude the use of canine sniffing searches, because the regulation specifically allowed other types of searches but did not mention dog searches. In both of these cases the authority granted was clear and broad. Therefore, there was no need to employ *ejusdem generis* as an interpretive aid.

In this case, the definition of “recreational vehicle” in the Town of China’s Land Use Ordinance is ambiguous, and application of *ejusdem generis* is both appropriate and helpful to the interpretation of its meaning and the types of “attachment[s] to a vehicle” there were intended to qualify as a “recreational vehicle.”<sup>1</sup> Moreover, the phrase “which may include” suggests that the examples that follow were intended to be the types of attachments allowed.

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<sup>1</sup> In light of the court’s ruling that the Park Model trailer does not qualify as a “recreational vehicle” under China’s Land Use Code, it is not necessary for the court to address the other issues raised in this appeal, namely: (1) whether CEO Mitnick misinterpreted the Code by concluding that “placed on-site” means “occupied,” (R. at 39 & 150), and; (2) whether, assuming the Park Model trailer is a “recreational vehicle under the Code, allowing it to be placed on the Namer lot resulted in that non-conforming lot to become more non-conforming in violation of the Code. With respect to the first issue, the Town appears to acknowledge that further findings

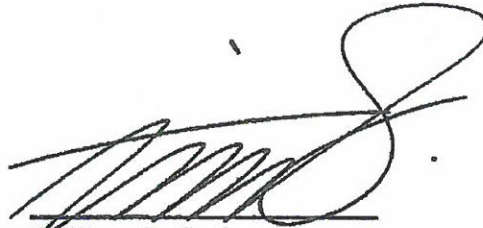
CONCLUSION

The entry is:

The Plaintiffs' Rule 80B appeal is GRANTED. The Decision of the China Land Use Board of Appeals is REVERSED and the CEO permit # 2018-21 is VACATED.

Dated: April 2, 2020

Entered on the docket 4/3/2020



William R. Stokes  
Justice, Superior Court

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by the Board of Appeals would need to be made. (Town's Brief at 2). Regarding the second issue, the Town did not address this in its brief. The court would note that CEO Mitnick recognized that Mr. Namer's non-conforming lot cannot be allowed to become more non-conforming, but he did not set forth any reasoning as to whether placement of the much larger Park Model trailer at a different location on the lot would result in more conformity, and if not, why not.



STATE OF MAINE  
KENNEBEC COUNTY

SUPERIOR COURT  
CIVIL ACTION  
Docket No. \_\_\_\_\_

KIMBERLY (HOULE) LAMARRE,  
and ANTHONY LAMARRE,

Plaintiffs

v.

TOWN OF CHINA,

and

NICHOLAS NAMER, and  
MARIE BOURQUE-NAMER,

Defendants

COMPLAINT FOR REVIEW OF  
GOVERNMENT ACTION  
M.R. CIV. P. 80B

Plaintiffs, Kimberly (Houle) LaMarre and Anthony LaMarre (collectively, the "LaMarres"), by and through their attorneys, Rudman Winchell, pursuant to Maine Rule of Civil Procedure 80B, seek review of the decision of the Town of China Board of Appeals to deny Plaintiffs' Administrative Appeal of the decision of the Town of China Code Enforcement Officer to issue Marie Bourque-Namer a permit to locate on Nicholas Namer's property a structure purported to be a camper and the subsequent decision by the successor Code Enforcement Officer to affirm that decision, stating as follows in support:

**PARTIES**

1. The LaMarres are residents of Cumberland County and own the land and improvements identified as Map 63, Lot 20 on the Town of China tax maps (the "LaMarre Property").

2. The Town of China is a municipal corporation located in Kennebec County and organized under the laws of the State of Maine.

3. Nicholas Namer is a resident of Cumberland County and owns the land and numerous structures identified as Map 63, Lot 22 on the Town of China tax maps (the "Namer Property").

4. Marie Bourque-Namer occupies a structure located on the Namer Property that is the subject of this appeal and, upon information and belief, is a resident of Kennebec County.

#### BACKGROUND

5. In early 2018, Nicholas Namer purchased the Namer Property.

6. The Namer Property abuts the LaMarre Property.

7. The prior owner of the Namer Property occasionally located a mobile camper in the southeasterly portion of the Namer Property, a portion of the property quite distant from the LaMarres' property.

8. On or about July 8, 2018, before obtaining any permits, the Namers installed a structure measuring 40 feet and 9 inches long by 12 feet wide in the southwesterly portion of the Namer Property.

9. The Namers describe the structure as a recreational vehicle.

10. On or about July 21, 2018, unbeknownst to Mr. and Mrs. LaMarre, Code Enforcement Officer ("CEO") Paul Mitnick issued a Notice of Violation to Mr. Namer concerning the installation of the structure.

11. On or about July 31, 2018, Ms. LaMarre complained to CEO Mitnick about the structure being located so close to her property.

12. CEO Mitnick told Ms. LaMarre he would instruct the Namers to remove the structure because it was not a recreational vehicle and the Namers cannot build any new structures on their property because of the size of the lot.
13. On or about August 8, 2018, after no such action had occurred, Ms. LaMarre contacted the Town Manager and CEO Mitnick concerning the status of her complaint.
14. She received no response.
15. On or about August 15, 2018, Ms. Bourque-Namer submitted an after-the-fact application for a CEO permit to:  
  
relocate the campsite previously located on the east side of the property nearest to RT 202, to a site adjacent to cabin 12 on the same property (same septic system) for the purpose [of] oversight[.] This is to be occupied less than 120 days a year. The camper is identified as a PMRV-park model rv. See attachments[.]
16. The application describes the type of permit sought as "Other: Private campsite move on property."
17. The LaMarres did not receive notice of this application.
18. When Ms. LaMarre again contacted the Town about her complaint on August 20, 2018, she received no response.
19. On August 21, 2018, CEO Mitnick granted the application.
20. In his written decision, he concluded: the structure is a "Recreational Vehicle" under the Town's Land Development Code; the lot is grandfathered and a non-conformity on such a lot is allowed to continue as long as conditions do not become more non-conforming; and resumption of a non-conforming use is allowed because it was not discontinued for more than one year.

21. The LaMarres did not receive any notice of the permit or learn that a permit was granted until July 2019, when Mr. LaMarre met with the Town Manager to discuss the LaMarres' complaint and the Town's failure to respond to the LaMarres' repeated requests for updates.

22. It was at this time that the new Town CEO, Bill Butler, informed the LaMarres that a permit had been issued but that the Town was investigating that decision.

23. On July 8, 2019, following a site visit to the Namers' property and inspection of the structure, CEO Butler informed the LaMarres that while he agreed with CEO Mitnick's decision to grant a permit for the structure based on the finding that it is a RV, the LaMarres may now appeal this decision to the Board of Appeals because they complained about the structure but were not provided notice of the original decision.

24. The LaMarres filed an administrative appeal on August 6, 2019.

25. Over the objection of the Namers, after a public hearing, the Board of Appeals concluded the LaMarres' appeal was timely and the Board had jurisdiction to consider it because the LaMarres provided good cause for filing an appeal more than 30 days after the issuance of the permit by CEO Mitnick.

26. The Board of Appeals denied the LaMarres' appeal on September 26, 2019.


27. It issued its written decision on October 18, 2019. The written decision of the Board of Appeals is attached as Exhibit A.

28. The decision of the Board of Appeals to deny the LaMarres' application is erroneous as a matter of law and not supported by substantial evidence in the record.

WHEREFORE, Plaintiffs, Kimberly (Houle) LaMarre and Anthony LaMarre, respectfully request this Court vacate the decision of the Town of China Board of Appeals to deny the LaMarres' appeal and remand this matter to the Board of Appeals with instructions to grant this appeal.

Dated: November 8, 2019

Respectfully Submitted,



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Edmond J. Bearor, Esq. (ME Bar # 3904)  
Stephen W. Wagner, Esq. (ME Bar # 5621)  
RUDMAN WINCHELL  
Attorneys for Plaintiffs  
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swagner@rudmanwinchell.com

EXHIBIT A

77994



## Town of China

571 Lakeview Drive, China, Maine 04358  
(207) 446-2014 info@chinamaine.org

### NOTICE OF ADMINISTRATIVE APPEAL DECISION

To: Kimberly and Anthony LaMarre  
32 Primrose Lane  
Freeport, ME 04032

Date: October 18, 2019

c/o Edmond Bearor, Esquire  
Rudman Winchell  
PO Box 1401  
Bangor, ME 04402-1401

RECEIVED

OCT 23 2019

RUDMAN WINCHELL  
LAW OFFICES

#### Findings of fact

1. The appellants, the LaMarrs', own property on Gilman Drive located on Map 63, Lot 20 in the Shoreland Zone and are abutters of the permittee.
2. The holders of the permit appealed are Nicholas and Jodi Namer and own property on Gilman Drive located on Map 63, Lot 22, in the Shoreland Zone.
3. The Namers received an after-the-fact permit to establish a seasonal campsite on a new location on 8/21/2018.
4. A completed application for an administrative appeal was submitted on 8/6/2019.
5. A public hearing on the China Land Use Board of Appeals was held on 9/26/2019, with the required quorum of five board members. Members in attendance: Spencer Aitel, Michael Gee, Robert Fischer, Anthony Pileggi and Lisa Kane.
6. The lot previously contained a recreational vehicle on a private campsite at a different location as well as five seasonal camps all grandfathered and non-conforming uses which uses have continued.
7. The Code Enforcement Officer had issued a Stop Work Order on 7/26/2018 for placement of a mobile home without a permit. This order was rescinded on 8/7/2018.
8. Both the LaMarrs and another abutter, Jeffrey LaVerdiere, testified that information regarding the status of the situation regarding the establishment of the new site and the town's Stop Work Order was not furnished to them, despite repeated and timely requests for this data.
9. Additional written testimony regarding the construction and the timeline for the installation of the campsite was received from another abutter, the Tuckers.
10. The Board of Appeals established the Appellants' right to appeal by the jurisdiction provided by good cause due to the town's apparent failure to respond to repeated and timely requests for information.

EXHIBIT A

11. The China Land Use Ordinance establishes structural requirements for recreational vehicles which the Park Model placed appear to meet according to decisions made by the then Code Enforcement Officer of the town.
12. The Namers have attempted to meet the requirements of the town and have had the use of the campsite for over a year.

Conclusion of Law

Based on the above stated facts and provisions of the ordinance, the Board of Appeals concludes:

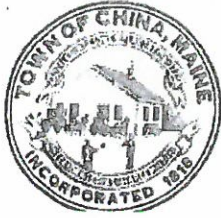
1. The permittees have a valid permit for the use as established.

Decision

Based on the above findings and conclusion the Board makes the following decision: The LaMarres' appeal is denied because the permittees have established the use and hold a valid permit as issued on 8/21/2018.

  
Spencer Abel, Chairman

cc Nicholas & Jodi Namer  
O'Donnell Lee, P.A.  
Kimberly & Anthony LaMarre  
Jeffrey LaVerdiere  
Daniel & Lucy Tucker  
Code Enforcement Officer  
Municipal Officers



*Town of China  
571 Lakeview Drive  
China ME 04358  
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info@chinamaine.org*

*Paul Mitnik  
Codes Enforcement Officer  
Local Plumbing Inspector  
(207) 445-3540  
ceo@chinamaine.org*

**8-9-18**

**Gilman Drive  
Map 63 Lot 22**

**Decision of Paul Mitnik, P.E.  
8-7-18**

This spring I met with Marie Namer concerning the placement of a gravel pad and an RV on this lot. Her son, Nicholas Namer purchased this property in April 12 of this year (Book 12881, page 0144). The lot contains five yellow colored seasonal camps and has historically contained an RV. The location that Ms. Namer wanted to place the new RV was a different location than previously but meets the 100 foot setback requirement from China Lake's high water mark. I verbally approved this location but told her it could not be occupied more than 120 days.

A park model RV was moved unto this site. I issued a Notice of Violation on July 26 for movement of a mobile home unto the lot without a building permit and a written sewage disposal plan. The mobile home was referred to as a principal structure. The Notice is rescinded due to new information that I discovered when meeting with the Namers on 8-7-18 and more carefully investigating facts and Ordinance requirements.

#### **Findings**

- Map 63 Lot 22 is approximately 1.35 acres.
- It does not meet the minimum lot size and water frontage requirements in China's Land Use Ordinance of 40,000 SF per dwelling unit and 200 feet, respectively (Sect 5(A)(I)).
- This lot is grandfathered due to the existence of the structures and lot prior to Ordinance enactment. Non-conformity is allowed to continue, as long as conditions do not become more non-conforming .
- An RV was formerly on this site in a different location. It was removed in April of this year when this property was sold to the present owner. It was attached to the existing septic system.
- In accordance with Section 2(E)(IV)(b) resumption of this non-conforming use is allowed, since it was not discontinued for more than one year.
- Although the current structure moved unto the lot has the appearance of a mobile home, the state regulations would not consider this a manufactured home due to the fact that it was not constructed in compliance with HUD standards.
- The structure meets the definition of an RV included within Chapter 11 of the China Land Development Code since
  - It can be towed by a motor vehicle (A one ton pickup is a motor vehicle)





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- Is built on a single chassis
- Is less than 400 sf (actual size is 399 sf)
- Its wheels are placed on the ground
- It is registered with the State Dept of Motor Vehicles
- It will be used as temporary living quarters (No more than 120 days per year)

- In accordance with Section 2(P) of China's Land Use Ordinance, one recreational vehicle may be placed on a private campsite for up to 120 days without having to meet requirements for residential structures except water setback. Placed is being interpreted as meaning occupied since most RV are parked on a lot for more than 120 days when not being used.
- The hookup to the septic system has historically been done by the previous owner. Although the current wastewater disposal bed is undersized for the RV and five camps, it is a grandfathered system which is allowed to continue so long as failure of the system does not occur (confirmed by personal communication with Brent Lawson, state plumbing inspector 8-7-18).

#### **Path Forward**

The owner, Nicholas Namer has agreed to obtain a CEO permit for the movement of the private campsite to another location. This permit will be conditioned to occupying the RV no longer than 120 days (typically Mid May to mid September).

## CHAPTER 1. GENERAL PROVISIONS

---

### SECTION 1. AUTHORITY AND PURPOSE

#### A. Authority

This Land Development Code is adopted per Article VIII, Part 2, of the Maine Constitution and the Home Rule provisions of Title 30-A MRSA Section 3001. This Land Development Code complies with the requirements of the Maine Revised Statutes Annotated, Titles 1, 12, 17, 30-A, 33, and 38.

#### B. Purpose

The purpose of this Land Development Code, prepared as part of a Comprehensive Plan for the development of the Town, is to promote the health, safety, and general welfare of the residents of the Town; and

To encourage the most appropriate use of land throughout the Town by controlling building sites, placement of structures, and land uses; and

To promote traffic safety and safety from fire and other elements; provide adequate light and air; prevent overcrowding of real estate; and

To promote a wholesome home environment; prevent housing development in unsanitary areas; provide an adequate street system and public services; promote the coordinated development of unbuilt areas; encourage the formation of community units; provide an allotment of land area in new developments sufficient for all requirements of community life; and

To conserve natural resources; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird, and other wildlife habitat; and conserve shore cover, visual as well as actual points of access to inland areas, especially on flood prone areas and shores unsuitable for development.

### SECTION 2. EFFECTIVE DATE

The effective date of this Land Development Code is June 5, 1993, with amendments dated June 1, 1996 as follows: Chapter 2 Land Use Ordinance; Chapter 3 Subdivision Ordinance; Chapter 7 Kennel Ordinance; Chapter 9 Appeals; and Chapter 11 Definitions; and November 4, 2003 as follows: Chapter 2 Land Use Ordinance.

### SECTION 3. VALIDITY AND SEVERABILITY

Should any section or provision of this Land Development Code be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Land Development Code. Wherever a conflict may be found to exist between this and any other town ordinance, the more restrictive provision shall apply.

### SECTION 4. AMENDMENTS

This Land Development Code may be amended by a majority vote of the legislative body. Amendments applying to Resource Protection, Stream Protection and Shoreland Districts must be submitted to DEP and approved by its Commissioner, in accordance with Title 38, M.R.S.A., section 438-A(3).

### SECTION 5. INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise set forth in the China Land Use District Map, district boundary lines are property lines, the centerline of streets, roads, and rights-of-way, and the boundaries of the Resource Protection, Stream Protection and Shoreland Districts as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

### SECTION 6. BASIC PROVISIONS

This Land Development Code includes the Town of China Land Use Ordinance, the Town of China Subdivision Ordinance, the Town of China Phosphorus Control Ordinance, and the Town of China Floodplain Management Ordinance, which are included herein as Chapters 2, 3, 4, and 5, respectively. Chapters 2, 3, 4, and 5, shall be governed by the provisions of Chapters 1, 9, 10 and 11.

## CHAPTER 2. LAND USE ORDINANCE

---

### SECTION 1. APPLICABILITY

This Ordinance shall apply to all land uses and structures within the Town of China with special emphasis on the shoreland area as defined hereinafter.

### SECTION 2. NON-CONFORMING EXISTING STRUCTURES, LOTS AND USES

#### A. Purpose

- I. The purpose of this section is to define and clarify the rights and privileges pertaining to structures not in conformance with this Ordinance on the effective date of this Ordinance or any amendment to this Ordinance.
- II. It is the intent of this Ordinance to promote land use conformities, except that nonconforming conditions that existed before effective dates of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 2. Except as otherwise provided in this Ordinance, a nonconforming condition shall not be permitted to become more nonconforming.

#### B. Definition

Any structure, lot or use of a structure or lot, lawfully existing on the effective date of this Ordinance or any amendment of this Ordinance, and not in conformance with this Ordinance or any amendments thereto, shall be "non-conforming."

#### C. Structures

- I. Structures requirements include lot coverage, lot area, water frontage, road set-back, side set-back, rear set-back, shoreline set-back, expansion limitations for non-conforming structures in the shoreland water setback area, and height limits. For specific information about numerical limitations, see section 5, subsection (A) and (B) or about non-conforming structure expansions, see section 2, subsection C(VI).

All setbacks shall be measured from the known property boundaries to the closest overhang, eave, or drip-edge of the structure. Road setbacks shall be measured from the road right-of-way and property boundary interface to the structure as described above.

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the land use district in which it is located, unless a variance is granted.

II. Expansion of a structure:

- a. in any Land Use District, includes any addition to the structure which causes the structure:
  - i. to cover a greater area of land,
  - ii. to increase in height or
  - iii. to increase in floor area or volume of the structure
- b. excludes the addition, installation or construction of:
  - i. foundation posts, provided the structure will meet the height limit,
  - ii. a foundation, provided that the sill height of a structure is not raised more than three feet on the uphill side of the structure (from original ground level to the bottom of the first floor sill) and the structure will meet the height limitation.
  - iii. exterior bulkhead entryways which provide access/egress to basement areas, provided that such additions meet all setback requirements;
  - iv. exterior steps or ramps not more than four (4) feet wide, with landings not to exceed sixteen (16) square feet in area.

III. Any non-conforming structure may be maintained and repaired and may be improved or altered, without expansion or enlargement, provided that the requirements of the Maine State Plumbing Code are met and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

IV. Relocation

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Code Enforcement Officer, and provided that

- a. the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules) (10-144; Chapter 241) without being a grandfathered system, or that a new system can be installed in compliance with the law and said Rules.
- b. the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Code Enforcement Officer, In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Code Enforcement Officer shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Code Enforcement Officer shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 5L. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

#### V. Reconstruction or Replacement

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or a wetland, or which otherwise fails to meet the dimensional requirements of this Ordinance, and which is removed, damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, excluding normal maintenance and repair, may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage, destruction or removal and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirements of this Ordinance to the greatest practical extent as determined by the Code Enforcement Officer in accordance with relocation criteria of subsection IV above. In no case shall the structure be reconstructed, relocated or replaced so as to increase its non-conformity.

If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 2.C.VII below, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area

and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section L.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained, from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the structure reconstruction or replacement meets setbacks to the "greatest practical extent" the Code Enforcement Officer shall consider the type of foundation present (if any), along with required documentation from the applicant other site-specific considerations such as existing ledge, drainage, and slope factors. It is not the intent of this section to require the destruction of a functional concrete or block foundation in order to meet setback requirements.

#### VI. Expansion of non-conforming structures including replacement foundations in the Resource Protection, Stream Protection, and Shoreland Districts

- a. A non-conforming structure may be added to or expanded after obtaining a permit from the Code Enforcement Officer (CEO) if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs below.
- b. If any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by more than 30% during the lifetime of the structure beginning on January 1, 1989. If a replacement structure conforms with the requirements of Section 2.C.IV, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

A non-conforming structure in the Rural, Stream Protection, and Shoreland District may be expanded if:

- i. The expansion is within the lot coverage, setback and height limits,
- ii. The distance between the normal high water line and any part of the expansion is equal to or greater than the distance between the normal high water line and the part of the structure which is closest to the normal high water line,

c. Foundations

- i. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation shall be placed such that the setback requirement is met to the greatest practical extent as determined by the Code Enforcement Officer, basing the decision on the relocation criteria specified in Section 2.C.IV, above including full compliance with the State of Maine Subsurface Wastewater Disposal Rules.
- ii. The completed foundation is not considered an expansion if
  1. It does not extend beyond the exterior dimensions of the structure; except for expansion in conformity with Section 2.C.VII.d.ii above, and
  2. It does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill)

VIII. Resource Protection District.

No lawfully existing nonconforming structure in the Resource Protection District may be enlarged or expanded, except that those existing residential structures in any Resource Protection District as of June 9, 2010 may be expanded up to 30% of the existing floor area and volume of said structures over the lifetime of the structure.

D. Lots

- I. Lot requirements include lot size or area [principal structures (residential): 40,000 square feet; principal structures (commercial) 60,000 square feet] and shore frontage (200 feet-residential and 300 feet-commercial), in the Resource Protection, Stream Protection, and Shoreland Districts.
- II. A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals. A non-conforming lot of record on which no principal structure has been constructed or installed may be:
  - a. Used, if all requirements of this Ordinance, are met, and provided that the shore frontage, if any exists, is at least 100 feet, and
  - b. Improved by the construction or installation of a principal structure or sewage disposal system if such lot of record is at least 20,000 square feet in area and all other requirements of this Ordinance are met.

Adopted April 6, 2019

2-5



- c. Uses on non-conforming lots, as allowed per a. and b. above, shall be limited to single family, residential uses.

III. **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. § 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

IV. **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on the effective date of this Ordinance dated June 5, 1993 and recorded in the registry of deeds if the lot is served by or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- a. Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- b. Any lots that do not meet the frontage and lot size requirements of this Ordinance are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

#### E. Uses

- I. Uses of lots (land) or structures include residential, commercial, industrial, governmental, institutional and agricultural.
- II. A non-conforming use of a structure or lot (land) may be continued but may not be enlarged, increased or extended to occupy a greater area of land than that occupied at the effective date of enactment or amendment of this Ordinance.
- III. Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Code Enforcement Officer, after

receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Code Enforcement Officer shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and other functionally water-dependent uses.

#### IV. Non-conforming Uses

- a. Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Code Enforcement Officer, be expanded within existing residential structures or within expansions of such structures as allowed in this Ordinance.
- b. Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- c. Change of Use. An existing non-conforming use of a lot (land) or structure may be changed to another non-conforming use, and may be changed to a conditional use, if approved pursuant to this Ordinance, or to a use allowed without a permit or approval pursuant to this Ordinance. After receiving a written application, the Code Enforcement Officer shall determine that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use. In determining that no greater adverse impact will occur, the Code Enforcement Officer shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources and other functionally water-dependent uses.

V. Conversion from seasonal to year round use is a change of use and subject to the State of Maine Seasonal Conversion Rules (10-144 Chapter 242) and subsequent amendments.

VI. No person shall by any transfer or conveyance of land create any non-conforming structure or lot or use, or increase the non-conformity of any structure or any lot or use. Nonconforming structures, lots and uses may be transferred, and the new owner may

Adopted April 6, 2019

2-7

continue the nonconforming use or continue the non-conforming structure or lot or use, subject to the provisions of this Ordinance.

VII. New occupancies and expansion of existing uses

- a. All existing uses as defined in Section 2.E.I of this Chapter, once made vacant by the discontinuance, removal, abolishment or elimination of its related occupancy shall have any new, subsequent or future occupancy within said vacancy reviewed under the conditional use provisions of this Ordinance, regardless of the similarity in use.
- b. All uses for which a permit has been granted, and also including all existing non-conforming uses, shall require review under the conditional use provisions of this Ordinance when there is:
  - i. a change of use pursuant to those uses identified by Section 2.E.I;
  - ii. an expansion of a particular use that exceeds the original limits under which a permit has been issued or a project approved, or the operational permitted activities under which the use has previously been functioning;
  - iii. a new business and its associated products are proposed to be added to or included in or at the existing business location.

VIII. Uses prohibited: The following new commercial and industrial uses are prohibited within the Shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- a. Auto washing facilities
- b. Auto or other vehicle service and/or repair operations, including body shops
- c. Chemical and bacteriological laboratories
- d. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- e. Commercial painting, wood preserving, and furniture stripping
- f. Dry cleaning establishments
- g. Electronic circuit assembly
- h. Laundromats, unless connected to a sanitary sewer
- i. Metal plating, finishing, or polishing

- j. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- k. Photographic processing
- l. Printing

### SECTION 3. CRITERIA FOR ESTABLISHING DISTRICTS

#### A. Resource Protection District (RPD)

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biotic systems, or scenic and natural values. This District shall include:

- I. Areas within 250 feet horizontal distance, of the upland edge of inland wetlands, as defined in Chapter 11, and wetlands associated with great ponds and rivers, specifically rated as moderate to high value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of December 31, 2008. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river
- II. Areas within 75 feet, horizontal distance, of the upland edge of an inland wetland, as defined in Chapter 11, and as specifically rated as low or non rated waterfowl areas by the Department of Inland Fisheries and Wildlife as of December 31, 2008; and:
- III. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100-year flood plain as designated on the most current Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps or the flood of record, or, in the absence of these, by soil types identified as recent flood plain soils; and
- IV. Areas having unstable soils subject to slumping, mass movement, or severe erosion when these areas are two acres or more in size including, but not limited to, those areas with sustained slopes of 20% or greater and including areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater as defined, and which are not surficially connected to a water body during the period of normal high water.
- V. Other significant areas considered in this district to fulfill the purposes of this Ordinance shall include, but not be limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the municipality after consultation with the Maine Historic Preservation Commission.

This District shall also include:

- VI. Other significant wildlife habitat;
- VII. Natural sites of significant scenic or aesthetic value;

Adopted April 6, 2019  
2-10

VIII. Areas designated by federal, state, or municipal governments as natural areas of significance to be protected from development; and

IX. All water bodies and areas as designated on the China Land Use District Map; and

X. This district shall also include all other 100 year flood plains adjacent to waters as shown on FEMA's most current Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

XI. Other significant areas which should be included in this district to fulfill the purposes of this Ordinance, such as, but not limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the municipality after consultation with the Maine Historic Preservation Commission.

**B. Shoreland District (SD)**

The Shoreland District is defined as all land within 250 feet, horizontal measurement, of the normal high water line of all ponds, lakes, or rivers and excluding those designated Resource Protection districts as defined herein; and also those 175 foot districts associated with those designated low value or non-rated wetlands as shown on the official China Land Use District Map.

**C. Stream Protection District (SPD)**

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream, exclusive of those areas within two hundred and fifty (250) feet, horizontal distance, of the normal high water line of a great pond or river, or within two hundred and fifty (250) feet, or seventy-five (75) feet, horizontal distance, of the upland edge of an inland or freshwater wetland. Where a stream and its associated shoreland area is located within two hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land shall be regulated under the terms of the shoreland district associated with that water body or wetland.

**D. Rural District (RD)**

The Rural District consists of all areas not included in the Resource Protection, Stream Protection, or Shoreland Districts.

**E. Land Use District Map**

These districts are specified on the officially adopted China Land Use District Map dated June 8, 2010 which is considered to be an integral part of this Ordinance.

**SECTION 4. USES**

Land uses permitted in each District, in conformance with the Land Use Standards of this Ordinance, are shown below:

**KEY:**

- Yes Allowed, no permit required.
- No Prohibited.
- PB Allowed, Planning Board permit required.
- CEO Allowed, Code Enforcement Officer permit required.
- LPI Allowed, Local Plumbing Inspector permit required.
- \* Subject to specific Land Use Standards in Section 5.
- CU Allowed, Planning Board, Conditional Use Permit Required.
- N/A Not Applicable.
- SANS Same as Section 4, Item 15, depending upon proposed new use of the building.
- NI Notice of Intent
- PBSO Allowed, Planning Board approval required; subject to requirements of Subdivision Ordinance

**Abbreviations:**

- RPD Resources Protection District
- RD Rural District
- SD Shoreland District
- SPD Stream Protection District

		<b>LAND USES DISTRICTS</b>			
		<u>RPD</u>	<u>SD</u>	<u>RD</u>	<u>SPD</u>
1.	Non-intensive recreational uses not requiring structures; such as hunting, fishing, hiking.	yes	yes	yes	yes
2.	Motorized vehicular traffic on roads and trails and snowmobiling.	yes	yes	yes	yes
3.	Forest management activities, except timber harvesting and land management roads.	yes	yes	yes	yes
4.	Timber harvesting. *Section 5 (R)	yes	yes	yes	yes
5.	Clearing or removal of vegetation for activities other than timber harvesting.	CEO	yes	yes	yes
6.	Fire prevention activities.	yes	yes	yes	yes
7.	Wildlife management practices.	yes	yes	yes	yes
8.	Soil and Water conservation practices.	yes	yes	yes	yes
9.	Mineral exploration. *Section 5 (T)	CEO	CEO	yes	CEO

		LAND USES DISTRICTS			
		RPD	SD	RD	SPD
10.	Mineral extraction; sand and gravel extraction. *Section 5 (T)	no	PB	CEO	no
11.	Surveying and resource analysis.	yes	yes	yes	yes
12.	Emergency operations, as defined.	yes	yes	yes	yes
13.	Harvesting of wild crops.	yes	yes	yes	yes
14.	Agriculture.	PB	yes	yes	yes
14a.	Aquaculture	PB	PB	PB	PB
15.	Principal uses, structures or additions. *Section 5 (A)				
	One and Two-unit dwellings	no	CEO	CEO	no
	Multi-unit dwelling	no	no	PBSO	no
	Mobile home parks	no	no	PBSO	no
	Commercial structures	no	CU	CU	no
	Industrial structures	no	no	CU	no
	Government structures	no	CU	CU	no
	Institutional Structures	no	CU	CU	no
	Agricultural structures	no	PB	CEO	no
	Conversion (as defined) *Section 2 (E)(V)	no	CEO/LPI	CEO/LPI	no
	Small, non-residential facilities for educational, scientific, or nature interpretation purposes.	PB	CEO	CEO	no
	Parts of any structure over 35 feet in height that contain no floor area such as spires, steeple, towers (including communication towers), antennae, wind turbines, utility lines and poles, etc.	No	No	CU	No
15a.	Structures (non-residential) accessory to permitted uses or additions thereto. *Section 5 (B)	CEO	CEO	CEO	CEO
16.	Canopies over fuel pump islands. *Section 5 (U)	CEO	CEO	CEO	CEO
16a.	Parts of any proposed new (non-residential) structure, or addition to an existing (residential or non- residential) structure, accessory to a permitted use and over 35 feet in height and up to 100 feet in height, that contains no floor area such as spires, steeples, towers (including communication towers), antennae, wind turbines, utility lines and poles, etc. that are associated with residential uses (e.g. church steeples, radio antennae and towers, wind turbines, etc.)	No	No	CEO	No



		LAND USES DISTRICTS			
		RPD	SD	RD	SPD
16b.	Parts of any proposed new (non-residential) structure, or addition to an existing (residential or non-residential) structure, accessory to a permitted use and over 100 feet in height, that contains no floor area such as spires, steeples, towers (including communication towers), antennae, wind turbines, utility lines and poles, etc. that are associated with residential uses (e.g. church steeples, radio antennae and towers, wind turbines, etc.)	No	No	CU	No
17.	Home Occupations	CEO	CEO	CEO	CEO
18.	Public and private parks and recreational areas involving minimal structural development.	PB	CEO	Yes	PB
19a.	Campgrounds. *Section 5 (P-1)	no	no	PB	no
19b.	Individual, private campsites (P-2)	CEO	CEO	CEO	CEO
19c.	Road and driveway construction. *Section 5 (Q)	NO	CEO	Yes	CEO
19d.	Land Management Roads	PB	yes	yes	yes
20.	Piers, docks, wharves, break-waters, causeways, marinas or bridges over 20 feet in length, projecting into water bodies: *Section 5 (N)				
	Temporary	CEO	CEO	N/A	CEO
	Permanent	PB	PB	N/A	PB
21.	Clearing for approved construction *Section 5 (I)	CEO	yes	yes	CEO
22.	Essential services				
	Roadside distribution lines (34.5kV and lower)	CEO	CEO	yes	yes
	Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB	PB	yes	PB
	Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB	PB	yes	PB
	Other essential services	PB	PB	yes	PB
23.	New private sewage disposal systems. *Section 5 (C)	no	LPI	LPI	no

Adopted April 6, 2019  
2-14

		LAND USES DISTRICTS			
		RPD	SD	RD	SPD
24.	Commercial hazardous or solid waste disposal facilities. *Section 5 (D)	no	no	CU	no
25.	Signs. *Section 5 (M)				
	Residential	yes	yes	yes	yes
	All other signs	CEO	CEO	CEO	CEO
26.	Filling or earth-moving activity of up to 100 cubic yards per year. *Section 5 (F)				
	Residential	CEO**	CEO**	yes	CEO**
	Fuel Tank Removal & Reinstallation;	CEO	CEO	CEO	CEO
	Hazardous Material clean-up				
	Commercial Paving	CEO	CEO	CEO	CEO
	All other uses	CEO	CEO	CEO	CEO
**Residential uses in the Shoreland District (SD) shall be allowed up to ten (10) cubic yards of fill or earth moving per year without a CEO Permit.					
27.	Filling or earth-moving activity of more than 100 cubic yards per year. *Section 5 (F)				
	Residential	CU	CU	yes	CU
	Agricultural	CU	CU	yes	CU
	Fuel Tank Removal & Reinstallation;				
	Hazardous Material clean-up	CU	CU	CU	CU
	Commercial Paving	CU	CU	CU	CU
	All other uses	CU	CU	CU	CU
28.	Uses similar to permitted uses.	CEO	CEO	CEO	CEO
29.	Uses similar to those uses or structures requiring a CEO permit	CEO	CEO	CEO	CEO
30.	Uses similar to those permitted uses or structures requiring a PB permit	PB	PB	PB	PB
31.	Change of use of an existing structure where no physical change is required.	SANS	SANS	SANS	SANS
32.	Common waterfront lot.	NI	NI	N/A	NI

## SECTION 5. LAND USE STANDARDS

A. All land use activities shall conform to the following applicable land use standards:

### I. Dimensional Requirements for Principal Structures

#### a. Resource Protection, Stream Protection, and Shoreland District:

This subsection of the Ordinance applies to any structure, or portion thereof, built within 250 feet, horizontal distance, of the normal high-water line of any great pond or river, or upland edge of a freshwater wetland as defined herein as well as those structures or portions thereof built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a waterbody or wetland, and 75 feet from all regulated streams.

- i. Minimum lot area: 40,000 square feet (residential)  
60,000 square feet (commercial)

Lands below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

- ii. Minimum road setback: 25 feet from property line.
- iii. Minimum side setback: 10 feet from property line.
- iv. Minimum rear setback: 15 feet from property line.
- v. All structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements. Minimum shoreline setback: 100 feet (horizontal distance) from normal high water line of great ponds classified GPA and rivers that flow to great ponds classified GPA.  
  
Other minimum setbacks: 75 feet (horizontal distance) from normal high water line of all other water bodies, tributary streams or the upland edge of a wetland. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.
- vi. Maximum height: 35 feet
- vii. Minimum shore frontage for lots abutting a Resource Protection, Stream Protection, or Shoreland District shall be two hundred (200) feet per principal residential structure and three hundred (300) feet per principal commercial structure, measured in a straight line between the points of intersection of the side lot lines and the normal high water line.
- viii. Maximum lot coverage: structures of all types shall not cover more than 15%

of any lot. (Impervious surfaces, driveways, parking areas, etc. do not apply to lot coverage.)

- ix. If more than one principal structure or dwelling unit or use is located on a lot, the minimum lot size and shore frontage shall be increased in proportion to the number of principal structures or dwelling units, or combination thereof, on the lot so that the average density of use of the lot will be no greater than it would be if these structures or units or uses were to be placed on individual lots.
- x. Any lot providing water access to lots not abutting a water body shall be accessible by easement, right-of-way or other right of use to no more than eight (8) dwelling units and shall be owned by the persons having access as tenants in common or by a nonprofit corporation (homeowners association). No such lot shall be used until the creator of such common rights shall have filed with the Code Enforcement Officer a Notice of Intent consisting of a standard boundary survey of the common lot, a description by tax map and lot number or by reference to a recorded subdivision map of the lots having access and the form of ownership of the lot. Such lot shall meet the lot area and shore frontage requirements of this Ordinance. Any structure built on such lot shall meet the requirements of this Ordinance and other applicable law.
- xi. Piers, docks, and retaining walls which require direct access or proximity to the water line as an operational necessity are not required to meet the shoreline setback requirement.
- xii. The lowest floor elevation or openings of all buildings shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types identifiable as "recent flood plain soils." See definition in Chapter 11, "Recent flood plain soils".
- xiii. Structures, including but not limited to fences and signs, shall not be created along any right-of-way line so as to obstruct the view of motorists approaching any intersection of public ways or of any driveway.
- xiv. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- xv. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

b. Rural District

- i. Minimum lot area: 40,000 square feet except mobile home parks are permitted to have smaller lot sizes as indicated in Chapter 3, Section 11.9(D)(3) of the China Land Development Code. Multi-unit dwellings shall have an additional

20,000 square feet for each unit more than one. Land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

- ii. Minimum road setback: 25 feet from property line.
- iii. Minimum side setback: 10 feet from property line.
- iv. Minimum rear setback: 15 feet from property line.
- v. Maximum lot coverage: structures of all types shall not cover more than 20% of any lot. (Impervious surfaces, driveways, parking areas, etc. do not apply to lot coverage.)
- vi. Maximum building height: 35 feet.
  - 1. Parts of any new proposed structure, or additions to existing structures, over 35 feet and up to 100 feet that contain no floor area such as spires, steeples, towers (including communication towers), antennae, wind turbines, utility lines and poles, etc. may be allowed under a permit from the Code Enforcement Officer, but provided that said proposal is not subject to the review under Section 4, Item 15 requiring a conditional use permit from the Planning Board;
  - 2. Parts of any new proposed structure, or additions to existing structures, over 100 feet that contain no floor area such as spires, steeples, towers (including communication towers), antennae, wind turbines, utility lines and poles, etc., and including those proposals under Section 4, Item 15, may be allowed under a conditional use permit from the Planning Board.
- vii. If more than one principal structure is located on a lot, the minimum lot size shall be increased in proportion to the number of principal structures so that the average density will be no greater than it would be if these structures were to be placed on individual lots.
- viii. Structures, including but not limited to fences and signs, shall not be created along any right-of-way line so as to obstruct the view of motorists approaching any intersection of public ways or of any driveway.
- ix. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.

**B. Dimensional Requirements for Accessory Structures for any District in Which Allowed.**

- I. The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational

necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 MRSA § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

- II. All structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements. Minimum shoreline setback: 100 feet, horizontal distance, from the normal high water line of great ponds classified GPA and rivers that flow to great ponds classified GPA.

Other minimum setbacks: 75 feet, horizontal distance, from normal high water line of all other water bodies, tributary streams, or the upland edge of a wetland. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

- III. Maximum lot coverage for all structures:

Resource Protection, Stream Protection and Shoreland District: 15%

Rural District: 20% Note: Impervious surfaces, driveways, parking areas, etc. do not apply to lot coverage.

- IV. Minimum road setback: 25 feet.

- V. Minimum side setback: 10 feet.

- VI. Minimum rear setback: 15 feet.

- VII. Maximum building height: 35 feet.

- a. Parts of any proposed new (non-residential) structure, or additions to existing (non-residential) structures, accessory to a permitted use and over 35 feet and up to 100 feet, that contains no floor area such as spires, steeples, towers (including communication towers), antennae, wind turbines, utility lines and poles, etc. that are associated with residential uses (e.g. church steeples, radio antennae and towers, wind turbines, etc.) may be allowed under a permit from the Code Enforcement Officer, but provided that said proposal is not subject to the review under Section 4, Item 15 requiring a conditional use permit from the Planning Board;

- b. Parts of any proposed new (non-residential) structure, or additions to existing (non-residential) structures, accessory to a permitted use and over 35 feet and up to 100 feet, that contains no floor area such as spires, steeples, towers (including communication towers), antennae, wind turbines, utility lines and poles, etc. that are associated with residential uses (e.g. church steeples, radio antennae and towers, wind turbines, etc.) and including those proposals under Section 4, Item 15, may be allowed under a conditional use permit from the Planning Board.

VIII. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

- a. The site has been previously altered and an effective vegetated buffer does not exist;
- b. The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
- c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
- d. The total height of the wall(s), in the aggregate, are no more than 24 inches;
- e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils;
- f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks;
- g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
  - i. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
  - ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
  - iii. Only native species may be used to establish the buffer area;

Adopted April 6, 2019  
2-20

- iv. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
- v. A footpath not to exceed the standards in Section 5.I.II.a, may traverse the buffer;

IX. Structures, including but not limited to fences and signs, shall not be created along any right-of-way line so as to obstruct the view of motorists approaching any intersection of public ways or of any driveway.

### C. Sanitary Standards

- I. All subsurface wastewater disposal facilities shall be installed in conformance with the Maine Subsurface Wastewater Disposal Rules. The following additional standards shall apply to new construction:
  - a. All subsurface wastewater disposal facilities shall be located in areas of suitable soil within which there shall have been dug at least five (5) observation holes, one in each corner and one near the center.
  - b. Clearing or removal of woody vegetation necessary to site a new septic system and any associated fill extensions, shall not extend closer than 100 feet, horizontal distance, from the normal high-water line of a great pond, tributary stream, water body or the upland edge of a wetland.
  - c. Applications for a septic system permits containing a request for a 1<sup>st</sup> time system variance for a reduction of plumbing code standards through the Department of Health and Human Services Wastewater Unit shall not be approved by the Town's Local Plumbing Inspector or the Municipal Officers. A holding tank is not allowed for first-time residential use except as a temporary measure for up to ninety days during an alteration or repair of an existing system.
- II. No well may be drilled, dug, or constructed except in accordance with a permit issued by the CEO. No replacement well may be located within the following distances from sewage treatment tanks or sewage disposal areas:
  - a. 80 feet from tanks or area on abutting property, and
  - b. 50 feet from tanks or areas on the owner's property. No well to be used for a new structure may be located within 100 feet of any sewage treatment tank or any sewage disposal area.

If an applicant demonstrates to the CEO by clear and convincing evidence that satisfaction of these requirements would result in substantial hardship to the applicant, then the CEO may vary these requirements to the minimum extent necessary, consistent with safe and sound engineering practice as determined by the CEO.



#### D. Soils

- I. All Land Uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution whether during or after construction. Subsurface wastewater disposal system designs shall be prepared by State certified soil scientists, geologists, or licensed site evaluators, as required by State law. Commercial or industrial development and other similar intensive Land Uses, shall require a soils report prepared by a State certified soil scientist or geologist based on an on-site investigation. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth-to-water table and depth-to-refusal.
- II. Commercial or industrial development and intensive land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution whether during or after construction. Such land uses shall require a soils report prepared by a State certified soil scientist or geologist based on an on-site investigation. The report shall be based upon an analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which may be required. The soils report shall include both a soils map and recommendations for a proposed use to counteract soil limitations where they exist.

#### E. Stormwater Management

- I. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of storm waters.
- II. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

#### F. Erosion and Sedimentation Control

- I. Filling, grading, excavation, dredging, earth-moving activities, and other similar land use activities shall be conducted in such manner as to prevent, to the maximum extent possible, erosion and sedimentation of surface waters. On slopes greater than 25 percent, there shall be no grading or filling within 100 feet of the normal high water line except to protect the shoreline and prevent erosion. Furthermore, any activity which occurs within 75 feet of the normal high water line shall be subject to the State's Natural Resource Protection Act, including its Permit by Rule procedures.
- II. During any construction of any permitted structures on any lot, or during any filling or earthmoving, the owner and any contractor employed thereby shall employ sediment and erosion control practices as set forth by the Maine Erosion and Sedimentation

Adopted April 6, 2019  
2-22

Control Best Management Practices (October 2016) or subsequent editions published by the Maine Nonpoint Source Training & Resource Center. Said practices should include but not be limited to one or more of the following: staked hay bales, stone check dams siltation fences, filter socks, erosion control mix berms, erosion control blankets, and temporary mulching of all disturbed soil with permanent ground cover seeding occurring within seven (7) days of final grading.

- III. Earth-moving, filling and/or soil disturbances related to the removal of fuel storage tanks and/or the recovery of toxic/hazardous materials must comply with applicable state and federal laws in addition to the requirements of this Ordinance.

#### G. Water Quality Protection

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute or harm such waters or cause nuisances, oil, scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

#### H. Agriculture

- I. All spreading and storage of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. § 4201-4209).
- II. There shall be no tilling of soil within 100 feet of a great pond or within 75 feet of the normal high water line of any other water body whose shorelands are covered by this Ordinance, nor within seventy-five (75) feet, horizontal distance, of any river, tributary stream or wetland. Operations in existence on the effective date of November 4, 2003 or subsequent amendments to this ordinance and not in conformance with this provision may be maintained.
- III. Where soil is tilled in a Resource Protection District, or where soil in excess of 20,000 square feet is tilled in any Shoreland District or a Rural District, such tillage shall be carried out in conformance with Department of Agriculture best management practices. Additionally, such tilling activities, or the spreading, disposal, or storage of manure in any Shoreland District shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be a violation of this Ordinance. The provisions cited in this section shall not apply to non-commercial garden plots where soil tilled is less than 20,000 square feet in the Rural District.
- IV. Manure shall not be stored or stockpiled within one hundred (100) feet horizontal distance, of the normal high-water line of a great pond classified GPA, river, stream, tributary stream or wetland. All manure storage areas within any shoreland district must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

V. After the effective date of this Ordinance on November 4, 2003, newly established livestock grazing areas shall not be permitted within one hundred (100) feet of the normal high-water line of a great pond classified GPA, river, stream, tributary stream or wetland. Livestock grazing areas associated with on-going farm activities as of the effective date of this Ordinance on November 4, 2003 and which are not in conformance with the above setback provision may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

I. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

I. In a Resource Protection District abutting a great pond, river, waterbody, tributary stream or upland edge of a wetland, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in section 5J. Elsewhere, in any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

II. Except in areas as described in Paragraph I, above and as described in Section 5K, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- a. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
- b. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a “well distributed stand of trees” adjacent to a great pond classified GPA or river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50 foot rectangle (1,250 square feet) area as determined by the following rating system.

<u>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</u>	<u>Points</u>
2 to < 4 in.	1
4 to < 8 in.	2
8 to < 12	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a “well-distributed stand of trees” is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- i. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- ii. Each successive plot must be adjacent to, but not overlap a previous plot;
- iii. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- iv. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- v. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 5.I.II.b "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured 4-1/2 feet above ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses described in paragraphs 2 and 2a above.
  - d. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
  - e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead, or hazzard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section 5L unless existing new tree growth is present.
  - f. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within the shoreline buffer, must comply with the requirements of Section I (II).
- III. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body,

tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4-1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot within a shoreland district or ten thousand (10,000) square feet, whichever is greater, including land previously cleared.

- IV. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
  - V. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.
- J. Hazzard Trees, Storm Damaged Trees, and Dead Tree Removal
- I. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
    - a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
      - i. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
      - ii. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and

stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

- iii. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
- iv. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

II. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

- a. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
  - i. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
  - ii. Stumps from the storm-damaged trees may not be removed;
  - iii. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
  - iv. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
- b. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

K. Exemptions to Clearing and Vegetation Removal Standards

The following activities are exempt from the clearing and vegetation removal standards set forth in Section I, provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- I. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such

areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 5(I) apply;

- II. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 5(A) are not applicable;
- III. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- IV. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 5(H) are complied with;
- V. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along a river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- VI. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  - a. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - b. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - c. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
- VII. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

#### L. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in Section 5I, to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the

vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- I. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- II. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- III. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- IV. Revegetation activities must meet the following requirements for trees and saplings:
  - a. All trees and saplings removed must be replaced with native noninvasive species;
  - b. Replacement vegetation must at a minimum consist of saplings;
  - c. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - d. No one species shall make up 50% or more of the number of trees and saplings planted;
  - e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - f. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- V. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
  - a. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  - b. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective



infiltration of stormwater;

- c. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
- d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
- e. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years

VI. Revegetation activities must meet the following requirements for ground vegetation and ground cover:

- a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
- b. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
- c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

M. Signs

- I. Unless exempted or prohibited as provided below, signs which are erected in the Town of China after the effective date of this amendment, or which are moved or substantially replaced existing signs must be permitted and in accordance with this ordinance. Non-conforming signs which were erected on the premises prior to June 8, 2010 may continue to be displayed except as indicated in this paragraph below provided that they do not become more non-conforming. All signs including ones erected prior to June 8, 2010 shall meet external illuminated standards as indicated in subsections II(a) (iii); and electronic digital sign standards as indicated in subsection II(f). A change of use in any commercial property or abandonment of a use for more than one year shall require subsequent uses to meet requirements of this section. All non-conforming signs remaining on an abandoned use shall be removed or made conforming within ninety (90) days after the one year abandonment period.
  - a. All signs associated with new development subject to this ordinance shall be described at the time of development approval.
  - b. New and replacement signs shall be subject to permit approval by the Code Enforcement Officer. An applicant shall submit a request for approval which contains a scale drawing or illustration of the sign and mounting or support mechanism, and a depiction of the location on the lot where the sign will be placed.

- c. If the new sign is to be placed on the site of a development previously approved under this ordinance, a copy of the application and notice of the CEO's action, if any, shall be placed in the development record file.
- d. The following types and styles of sign are exempt from the requirements of this section, except as indicated in section II (h) provided that their placement does not create or exacerbate a hazard to traffic, pedestrians, or neighboring property owners:
  - i. Signs of seven (7) square feet or less not associated with a commercial enterprise.
  - ii. House addresses, family name signs, and no trespassing signs.
  - iii. Flags or banners of a country, state, or other political subdivision, or which contain a single word such as "welcome" or "open;" not exceeding twenty-four (24) square feet.
  - iv. Signs which provide information, such as parking location or travel movements, containing no significant element of commercial advertising.
  - v. Flags or pennants shall not exceed twenty four (24) square feet. Banners not exceeding fifty (50) square feet erected to promote a particular public event, which are displayed for no more than thirty (30) days prior to that event and which are removed within 7 days following the event.
  - vi. Signs permitted as Official Business Direction Signs by the Maine Department of Transportation.
  - vii. Construction/ contractor signs limited to the duration of the project.
  - viii. A building-mounted food menu sign advertising food items for sale on the premises at a legally existing restaurant, fast food outlet, drive-in restaurant, or snack bar that doesn't exceed twelve (12) square feet.
  - ix. Business signs on and facing toward athletic fields.
  - x. Safety signs including Occupational Safety and Health Administration (OSHA) warning signs.
  - xi. Off-premise farm stand signs advertising the sale of fresh fruit and vegetable crops permitted by 23 MRSA section 1913-2-F or as amended.
- e. The following signs are prohibited:
  - i. Signs that contain hate speech as defined by the criminal statutes of Maine or that express an obscene message.

Adopted April 6, 2019  
2-31

- ii. Real estate signs greater than 6 square feet.

## II. Sign Design Standards

The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures shall not have a detrimental effect on existing or proposed buildings, public safety, or surrounding properties, through conformance with the following standards:

### a. General

- i. No portion of any sign shall be located within a street's right-of-way, nor shall any sign reduce or obstruct traffic visibility or present a safety hazard.
- ii. All signs except for Portable Signs shall be securely affixed to the ground or a building.
- iii. External illumination of signs may be provided only by steady, stationary, shielded light sources directed solely on the sign so as not to cause glare for motorists, pedestrians or neighboring premises. Internal lighting, where allowed, shall not show exposed lighting elements nor vary in intensity. All sign lighting shall be turned off from 10 PM to 6 AM unless opened for business during these hours; including signs that existed prior to June 8, 2010.
- iv. All signs in subsections b to g may be further restricted by subsection II (h).

### b. Signs for Home Occupations

Any business permitted as a home occupation is permitted one (1) free-standing sign plus one (1) building-mounted sign. The free-standing sign shall not exceed nine (9) square feet and shall not exceed six (6) feet from the highest point of land to the top of the sign. The building-mounted sign shall be placed at or near the primary entrance to the business and shall not exceed four (4) square feet in area. Interior illumination is not allowed.

### c. Signs for Subdivisions

- i. No more than one (1) sign may be placed to designate or mark the entrance to a mobile home park or subdivision with a private road. Each sign shall be no more than twenty four (24) square feet in area. Internal illumination of such signs is prohibited. Signs shall be placed on property owned by the owner of the development or homeowners association. Signs shall be placed in such a way as to not interfere with motorist visibility or maintenance of the roads or ditches adjacent to them.
- ii. A subdivision of commercial lots, specifically a business or industrial park, may display one sign of no greater than one hundred fifty (150) square feet for the

Adopted April 6, 2019

2-32

purpose of identifying the park and/or its occupants. Signs shall be placed on property owned by the owner of the subdivision.

d. Commercial Development: Building-mounted Signs

The owner or proprietor of a commercial building may display any number of business-related signs mounted directly on the building, provided that they conform to the following standards.

- i. Signs shall not extend more than twelve (12) inches from the face of the building unless all parts of the sign are located at least eight (8) feet above the ground surface.
- ii. No portion of any sign shall extend more than twenty (20) feet above the ground surface, including signs, which may be painted on or affixed to the roof.
- iii. The total area of all building-mounted signs shall be limited as follows:
  1. All commercial properties shall be permitted at up to sixty (60) square feet of sign area, regardless of building or lot size;
  2. The allowable sign area shall be proportional to the size of the principal building, as measured on its longest façade. The façade is the exterior wall of a building exposed to public view. The total area of signs shall not exceed ten (10) percent of the square foot area of the façade.
  3. The sign area is calculated as the aggregate total of all signs located on the exterior of the building, regardless of whether they are mounted on the façade.
  4. Signs, which are part of or attached to an accessory structure, such as a garage or canopy for gas pumps, are included in the calculation of allowable area based on the façade of the principal building.
- iv. Interior window signs or displays may be visible from outside the building through not more than forty (40) percent of the glazed area of the window. If a permanent sign is painted on the window, the area of that sign must be included in the forty (40) percent limit. There shall be no flashing signs.

e. Commercial Development: Free-standing Signs

- i. The owner or proprietor of a commercial building may erect on the premises of the business no more than one (1) free standing sign if road frontage is three hundred (300) feet or less or two (2) free-standing signs if road frontage exceeds three hundred (300) feet.
- ii. The free-standing sign(s) shall be limited to no more than thirty two (32) square feet in area per sign except for business directory signs.

- iii. No free-standing sign shall exceed twenty (20) feet in height, as measured from the ground surface adjacent to the sign.
- iv. If a free-standing sign which legally exists at the time of enactment of this amendment is moved or replaced, it may be replaced by new signs that conform to the provisions herein or may be replaced once by signs that are not larger than seventy five (75) percent of the existing sign area. The rehabilitation or replacement of the face of a sign with a new face of identical or smaller size is not considered "replacement" for the purpose of this section.
- v. No free standing business/office directory sign shall exceed one hundred fifty (150) square feet of gross display area. At least ten (10) percent of the sign not exceeding fifteen (15) square feet shall identify the name of the multi-tenant development. Individual tenant signs within the directory sign shall not exceed eight (8) square feet.
- f. Electronic, including digital, message signs are subject to the following standards including signs that existed prior to June 8, 2010.
  - i. Electronic message signs are permitted to be located only on State roads. Only one (1) electronic message sign is permitted per premises.
  - ii. Electronic message signs shall consist of a single frame of text or graphics which may be changed with a minimum hold time of ten (10) seconds between frame changes. Signs which display only time and temperature may change with a minimum hold time of two (2) seconds. Frames shall contain static images with no flashing, intermittent, or moving light or lights. A frame effect such as a scroll or travel may be used between frames, provided lighting does not vary in intensity.
  - iii. All electronic message signs shall be turned off from 10 PM to 6 AM unless opened for business during these hours except for time or temperature displays and public service announcements.
- g. Temporary Advertising Placards
 

A maximum of four (4) pole-mounted temporary placard signs not exceeding four (4) square feet each for retail advertising are permitted for a period not to exceed thirty (30) days. These signs require a permit from the Code Enforcement Officer.
- h. The following provisions shall additionally apply to the use of signs in the Resource Protection, Stream Protection, and Shoreland Districts:
  - i. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

- ii. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
  - iii. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
  - iv. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
  - v. Signs relating to public safety shall be allowed without restriction.
  - vi. No sign shall extend higher than twenty (20) feet above the ground.
  - vii. Signs may be illuminated only by shielded, non-flashing lights.
- N. Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges (over 20 Feet in Length), and Other Uses extending over or below the normal high-water line of a waterbody or within a wetland. In addition to Federal or State permits, which may be required for such structures and uses, they shall conform to the following:
- I. No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except as follows:
    - a. Docks that have existed before November 8, 2016, and
    - b. When a single lot contains at least twice the minimum shore frontage as specified in Section 5(A)(I)(a)(vii), a second structure may be allowed and may remain as long as the lot is not further divided.
  - II. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
  - III. The location shall not interfere with existing developed or natural beach areas.
  - IV. The facility shall be located so as to minimize adverse effects on fisheries.
  - V. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
  - VI. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless:
    - a. The structure requires direct access to the water body or wetland as an operational necessity.

- b. The structure is a functionally water-dependent use as defined in MRSA 38 Section 436A(6) and is located on Town or public land. Functionally water-dependent uses are uses such as recreational fishing and boating facilities, and waterfront dock facilities. Recreational boat storage buildings are not a functionally water-dependent use. Functionally water-dependent uses do not have to meet water setback requirements required in other sections of this Ordinance and as indicated in MRSA 38 Section 439-A (4).

VII. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

VIII. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

IX. Vegetation may be removed in excess of the standards in Section 5(I) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

- a. When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

- b. Revegetation must occur in accordance with Section 5L.

#### O. Beach Construction

Beach construction on any great pond shall require a permit from the Maine Department of Environmental Protection. Beach construction on any river, stream, or brook capable of floating watercraft shall require approval from the Commissioner of the Department of Environmental Protection, as required by law.

#### P. Campgrounds

##### I. Commercial Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following.

- a. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

- b. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

## II. Individual Private Campsites

Individual private campsites not associated with commercial campgrounds are allowed provided the following conditions are met:

- a. One individual private campsite shall be allowed per lot existing within the shoreland zone as of the effective date of this ordinance on November 3, 2009, or thirty thousand (30,000) square feet of lot area within shoreland districts, whichever is less.
- b. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- c. Campsite placement and clearing on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of the great ponds China Lake and Three Mile Pond, and also Dutton Pond, Mud Pond, Evans Pond, Branch Pond, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- d. Only one recreational vehicle shall be allowed on a campsite. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
- e. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.
- f. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each individual campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- g. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.
- h. A permit is required from the CEO prior to establishing a campsite. Placement of a recreation vehicle, tent, or similar temporary shelter on a lot for extended overnight use

Adopted April 6, 2019

2-37



may not be done until a permit is obtained for an individual private campsite. Extended overnight use includes placement for more than seven (7) consecutive days.

**Q. Road Construction, Driveways and Parking**

I. Roads shall be located, constructed, and maintained in such manner that minimal erosion hazard results. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters.

- a. Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high -water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the CEO or Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

The above section does not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 5.N.I.a above except for that portion of the road or driveway necessary for direct access to the structure.

- b. Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- c. New permanent roads are not allowed within the shoreland zone along Significant River Segments except:
- i. To provide access to structures or facilities within the zone; or
- ii. When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

- d. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- e. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 2(F).
- f. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- g. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- h. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
  - i. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:
 

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40
  - ii. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
  - iii. On road and driveway sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30)

degree angle down slope from a line perpendicular to the centerline of the road or driveway.

iv. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

i. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning. A written maintenance plan indicating how these storm water control installations will be maintained shall be provided to the Town for its review and approval.

II. Additionally, all roads constructed shall conform to the following standards:

a. Road crossings of water courses shall be kept to the minimum number necessary;

b. Bottoms of culverts shall be installed at stream-bed elevation;

c. All cut or fill banks and areas of exposed mineral soil shall be revegetated or otherwise stabilized as soon as possible; and

d. Bridges or culverts of adequate size and design shall be provided for all road crossings or water courses which are to be used when surface waters are unfrozen.

III. Road construction shall be prohibited in the Resource Protection District except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the Planning Board.

IV. Parking

a. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located.

b. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

c. In determining the appropriate size of proposed parking facilities, the following shall apply to all districts:

i. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

ii. Internal travel aisles: Approximately twenty (20) feet wide.

Adopted April 6, 2019

2-40

## R. Timber Harvesting

- I. No person shall engage in timber harvesting within the Town of China, as defined hereinafter, unless the owner of the property from which the timber is to be harvested obtains a permit or files a Notice of Intent to Harvest Timber, as specified in Section 4, Item 4. Timber harvesting shall mean the cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery. Timber harvesting does not include the cutting or removal of less than 10 cords of wood during a period of one year from a lot of record, provided said lot is not within the Resource Protection, Stream Protection or Shoreland District zone or within 250 feet of a river, stream, or intermittent waterway. For purposes of this section, the following terms shall have the meaning set forth herein:
  - a. River - any free flowing body of water from that point at which it provides drainage for a watershed of two square miles to its mouth.
  - b. Stream - any free flowing body of water appearing on the most recent United States Geological Survey Topographical Map (7 1/2 minute series) of the Town of China.
  - c. Intermittent waterway - flowing water, resulting from surface water runoff or the position of the ground water table, which occurs for a period of more than three consecutive months during the year, or appearing as a solid-dashed (blue) line on the most recent United States Geological Survey Map (7 1/2 minute series) of the Town of China.

The Notice of Intent to Harvest Timber shall contain the name, address, and telephone number of the owner of the property where the timber harvesting is to be conducted. In addition, the Notice of Intent shall include the name, address, and telephone number of any agent or contractor engaged by the owner of the property to harvest the timber. The applicant shall identify the area to be harvested on the United States Geological Survey Topographical Map (7 1/2 minute) of the Town of China or a tracing or copy of an aerial photograph property map of the Town of China.

Upon approval of the Notice of intent the Code Enforcement Officer shall co-sign the Notice of Intent. The co-signature of the Notice of intent by the Code Enforcement Officer, shall serve as certification that local regulations regarding Timber Harvesting can-be met and shall also indicate that the applicant has received a copy of the Town of China Land Use Ordinance and that the Applicant has been advised of the requirements, of this Ordinance, regarding Timber Harvesting. The Applicant shall complete and sign a Timber Harvesting Checklist.

The crossing of any river, stream, intermittent waterway or other body of water with cutting or skidding machinery is permitted pursuant to a permit or Notice of Intent, (a) over a lawfully constructed road, culvert or bridge; (b) on frozen surface conditions during the months of December, January, February and March. Prior to approving any permit, or Notice of Intent the Code Enforcement Officer shall inspect any proposed crossings of rivers, streams, intermittent waterways or other water bodies and ascertain

the commencement date of the Timber Harvesting operation.

II. All timber harvesting conducted in the Town of China shall be performed in accordance with the Guidelines for Timber Harvesting in China dated May 30, 1992, which guidelines are incorporated herein in their entirety and made a part hereof and the statewide standards adopted June of 2016. The Guidelines are an condensed version of good forestry practices and are provided with notices of intent to help loggers comply with state requirements.

III. Timber harvesting in the Resource Protection, Stream Protection and Shoreland Districts

a. Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.

b. Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 5(R)(3)(b) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

i. Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

ii. Adjacent to great ponds, rivers and wetlands:

1. No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and

2. Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

c. Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

i. Option 1 (40% volume removal), as follows:

Adopted April 6, 2019

2-42

1. Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
  2. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
  3. Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
- ii. Option 2 (60 square foot basal area retention), as follows:
1. The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
  2. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
  3. Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
- iii. Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose

Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

- d. Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
  - i. Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
  - ii. Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
  - iii. Setbacks
    1. Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
    2. Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- e. Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 5(R)(III)(g) of this rule.
  - i. Land management roads and associated ditches, excavation, and fill must be set back at least:
    1. 100 feet, horizontal distance, from the normal high-water line of a great

pond, river or freshwater or coastal wetland;

2. 50 feet, horizontal distance, from the normal high-water line of streams; and
  3. 25 feet, horizontal distance, from the normal high-water line of tributary streams
- ii. The minimum 100 foot setback specified in Section 5(R)(III)(e)(i)(1) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 5(R)(III)(e)(i)(2) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  - iii. On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
  - iv. New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
  - v. Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 5(R)(III)(g). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  - vi. Road closeout and discontinuance. Maintenance of the water control installations required in Section 5(R)(III)(e)(v) must continue until use of the

Adopted April 6, 2019

2-45



road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.

- vii. Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 5(R)(III). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
  - viii. Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 5(R)(III)(e)(i) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
  - ix. Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- f. Crossings of waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- i. Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 5(R)(III): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
  - ii. Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 5(R)(III). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 5(R)(III).

- iii. Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
- iv. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
- v. Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
  - 1. a map showing the location of all proposed permanent crossings;
  - 2. the GPS location of all proposed permanent crossings;
  - 3. for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
  - 4. a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
- vi. Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 5(R)(III)(f)(vii) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
  - 1. concentrated water runoff does not enter the stream or tributary stream;
  - 2. sedimentation of surface waters is reasonably avoided;
  - 3. there is no substantial disturbance of the bank, or stream or tributary stream channel;
  - 4. fish passage is not impeded; and,
  - 5. water flow is not unreasonably impeded.

Subject to Section 5(R)(III)(f)(vi)(4) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

vii. Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

1. Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows or with a cross-sectional area at least equal to 3 times the cross-sectional area of the river, stream, or tributary stream channel.
2. Temporary bridge and culvert sizes may be smaller than provided in Section 5(R)(III)(f)(vii)(1) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
  - a) use of temporary skidder bridges;
  - b) removing culverts prior to the onset of frozen ground conditions;
  - c) using water bars in conjunction with culverts;
  - d) using road dips in conjunction with culverts.
3. Culverts utilized in river, stream and tributary stream crossings must:
  - a) be installed at or below river, stream or tributary stream bed elevation;
  - b) be seated on firm ground;
  - c) have soil compacted at least halfway up the side of the culvert;
  - d) be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
  - e) have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
4. River, stream and tributary stream crossings allowed under Section 5(R)(III), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

Adopted April 6, 2019

2-48

5. Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.
- viii. Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
1. Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 5(R)(II)(f)(ix) below.
  2. Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
  3. River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- ix. Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
1. Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
  2. Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
  3. Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

- a) it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
- b) it shall be designed to provide an opening with a cross-sectional area at least 3½ times the cross-sectional area of the river, stream or tributary stream channel; or
- c) it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

**g. Slope Table**

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 5(R)(III), but in no case shall be less than shown in the following table.

Average slope of land between exposed Mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

- h. **Definitions.** Unless otherwise provided herein, this Section 5(R)(III) incorporates by reference the definitions contained in the Maine Forest Service Rules Chapter 20, "Forest Regeneration and Clearcutting Standards", and Chapter 21, "Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas".

**IV. Timber Harvesting in the Rural District.**

All Timber Harvesting, and related activities such as road building, shall comply with the Erosion Control & Sediment Control Handbook for Maine Timber Harvesting Operations, Best Management Practices, June 1991 published by the Maine Forest Service.

In addition to the remedies provided for in Chapter 10, ENFORCEMENT, upon written notice from the Code Enforcement Officer, the Selectmen shall immediately notify the Department of Environmental Protection and the owner of the violation. The owner shall immediately cease the timber harvesting activities and secure the scene to prevent further discharge of silts into any water body. Any person charged with a violation of this section

may, in writing, request a hearing before the Planning Board within five days after the receipt of the notice of violation from the Selectmen. The hearing shall be held before the Planning Board, after proper notice, at the next available meeting of the Planning Board and it shall be the owner's burden to establish by clear and convincing evidence that the timber harvesting activity will not result in the water quality degradation to any river, stream intermittent waterway, pond or lake within the Town of China.

S. Hazardous and/or Solid Waste

Unless otherwise permitted by law, no hazardous or solid waste, including but not limited to garbage, refuse, scrap metal, junk, demolition, and building debris, and abandoned motor vehicles or parts thereof, shall be deposited, stored, or allowed to remain within two hundred fifty (250) feet of the normal high water line of any body of water, or from the upland edge of a wetland, to which this ordinance is applicable.

T. Mineral Exploration, Extraction and Gravel Pits.

I. In the Resource Protection, Stream Protection and Shoreland Districts:

- a. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral Extraction may be permitted under the following conditions:

- i. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of paragraph iii below.
- ii. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet, horizontal distance, of any property line, without written permission of such adjacent property.
- iii. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

1. All debris, stumps and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site. Note The State of Maine Solid Waste Laws, Title 38, M.R.S.A. § 1310 and Chapter 404 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.
2. The final graded slopes shall be two and one half to one (2-1/2:1) slope or flatter.
3. Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- iv. In keeping with the purpose of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

#### U. Canopies over Fuel Pump Islands

Notwithstanding the requirement for setbacks, canopies over fuel pump islands shall be allowed provided that:

The installation complies with all construction standards and best management practices concerning the installation of such canopies, including its structural integrity and the requirement to capture and treat surface water run-off from rainfall and snowmelt through a storm drainage system. The water discharge shall be diverted into a subsurface infiltrator to protect any and all sensitive land areas adjacent to the canopy, the fuel pump island and its associated apron. All pertinent information required to issue a permit pursuant to Chapter 2 of the China Land Use Ordinance, Section 4, Item 16 shall be reviewed by the Code Enforcement Officer may require any other pertinent information he or she deems necessary to determine the integrity of the canopy's secure installation, and may further condition specifications regarding the infiltration and treatment of drainage from said canopy, as long as such conditions are reasonably necessary to prevent soil or water contamination.

#### V. Essential Services

- I. A public utility or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.
- II. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

III. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection, Stream Protection District or Shoreland District, except through a conditional use permit review before the local Planning Board in order to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

IV. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

**W. Archaeological Site**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.



## SECTION 6. ADMINISTRATION

### A. Administering Boards and Agents:

#### I. Authority to administer this Ordinance is hereby vested in:

- a. Planning Board
- b. Code Enforcement Officer (CEO)
- c. Local Plumbing Inspector (LPI)

#### II. Whose duties shall include, but not be limited to, the following:

##### a. Planning Board:

The Planning Board shall prepare all such administrative forms, applications and procedures as may be required to fulfill the purposes of this Ordinance; shall receive and act upon all applications for permits they are empowered by Section 4 to process; shall make and maintain permanent records of all correspondence, applications, and actions related to this Ordinance; shall refer all complaints received relating to this Ordinance to the Code Enforcement Officer or Local Plumbing Inspector; and shall comply with statutory requirements relating to the receipt and processing of applications. See Section 6.B.VI.

##### b. Code Enforcement Officer:

The Code Enforcement Officer shall be appointed by the Board of Selectmen. The appointment of the Code Enforcement Officer shall be for a fixed term of one year or more. Removal of the Code Enforcement Officer shall comply with the MRSA, § 2633. The Code Enforcement Officer shall receive and act upon applications for permits as required by this code; shall make and maintain permanent records of all correspondence, applications and resulting actions related to the administration of this code and serve as primary custodian of those records.

##### c. Local Plumbing Inspector:

The Local Plumbing Inspector shall be appointed by the Board of Selectmen. The appointment of the Local Plumbing Inspector shall be for a fixed term of one year or more. Removal of the Local Plumbing Inspector shall comply with the provisions for removal of a Town Manager pursuant to 30A MRSA §2633. The Local Plumbing Inspector shall receive and act upon all applications for permits as required by the State of Maine Plumbing and Subsurface Wastewater Disposal Rules, and the provisions of this code; shall make and maintain permanent records of all correspondence, applications and actions related to the administration of the State of Maine Plumbing and Subsurface Wastewater Disposal Rules and this Code and serve as primary custodian of those records.

Adopted April 6, 2019

2-54

d. Assistant Code Enforcement Officers and Assistant Local Plumbing Inspectors:

The Board of Selectmen may appoint Assistant Code Enforcement Officers and Assistant Local Plumbing Inspectors as deemed necessary. Assistant Code Enforcement Officers and Assistant Local Plumbing Inspectors shall be supervised by the Code Enforcement Officer. Appointments of the Assistants shall be per Section 6.A.II.b or Section 6.A.II.c of this code as applicable.

B. Permits

I. Permits Required:

After the effective date of this Ordinance, no person shall engage in any use of land or undertake any construction requiring a permit as specified in Section 4, or expand or change an existing use, or expand an existing structure, or renew a discontinued non-conforming use when such activity herein requires a permit without first obtaining a permit as set forth in Section 4 of this Ordinance. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on the work site while the work authorized by the permit is performed. Permits, authorizations and decisions resulting from the administration of this code by the Planning Board, Appeals Board, Code Enforcement Officer and Local Plumbing Inspector reflect the provisions of this code. Those permits, authorizations and decisions resulting from the administration of this code may also reference the provisions of any county, state or federal laws, rules and/or regulations even though the specific law, rule and/or regulation is not mentioned in this Ordinance.

a. A permit is not required for the replacement of an existing road culvert as long as:

- i. The replacement culvert is not more than 25% longer than the culvert being replaced;
- ii. The replacement culvert is not longer than 75 feet; and
- iii. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water course.

b. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

c. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

II. Permit Application:

Applications for permits shall be submitted by the owner or his authorized agent in

writing on such forms, or in such form, as provided by the Code Enforcement Officer or Planning Board and shall contain such information as may be required to determine conformance with the provisions of this Ordinance, including a scaled site plan. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date of its receipt.

### III. Plumbing Permit:

A plumbing permit is required prior to issuance of a permit by Planning Board or Code Enforcement Officer. No permit for any activity involving the construction, installation or alteration of plumbing facilities shall be issued by the Planning Board or the Code Enforcement Officer unless a permit for such activity has been issued the applicant by the Local Plumbing Inspector.

### IV. Procedure for Administering Permits:

Within thirty-five (35) days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 4 of this Ordinance, shall notify the applicant in writing either that the application is complete or, if the application is incomplete, what specific additional material is needed to make a complete application. All permit applications shall be deemed complete only when all information requested is provided to the Town and all applicable review fees and/or building permit fees are paid. All permit applications shall either be approved or denied in writing within thirty-five (35) days of receiving a completed application, including all information requested. Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this Ordinance. Permits may be made subject to reasonable conditions to insure conformity with the purposes and provisions of this Ordinance. If a permit is denied, the reasons for denial shall be stated in writing. An appeal from any approval or denial of a permit shall be made within 30 days of the approval or denial.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance. After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- a. Will maintain safe and healthful conditions;
- b. Will not result in water pollution, erosion, or sedimentation to surface waters;
- c. Will adequately provide for the disposal of all wastewater;

- d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- e. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
- f. Will protect archaeological and historic resources as designated in the comprehensive plan;
- g. Will avoid problems associated with flood plain development and use; and
- h. Is in conformance with the provisions of Section 5, Land Use Standards, of this Ordinance. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure or use if the structure or use would be located in an unapproved subdivision or would violate or is in violation with any other local ordinance, or regulation or statute administered or any State law by the municipality.

V. Permits Issued by Code Enforcement Officer:

The Code Enforcement Officer shall approve or deny those applications for permits on which he is authorized to act as indicated in Section 4 of this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

VI. Permits Issued by the Planning Board:

The Planning Board shall approve or deny those applications on which it is empowered to act as indicated in Section 4 of this Ordinance. The Planning Board shall, after receipt of a complete application, including all information requested, grant a permit if it makes a positive finding based on the information presented to it that, except as specifically exempted in this Ordinance, the proposed use is in conformance with the provisions of Section 5, Land Use Standards. The Planning Board may grant a one-time-only permit extension of up to one year on a pre-approved permit, based upon a review of the applicant's original proposal and the demonstration that no changes have been made from said original proposal.

The Planning Board may decide to hold a Public Hearing on any application on which it is empowered to act. If a Public Hearing is to be held, it shall be held within 30 days of receipt of a completed application by the Planning Board. Public notice shall be given for the hearing, and abutting landowners to the proposed development shall be notified.

VII. Conditional Use Permits:

Above and beyond the nominal review fee for a conditional use permit application, an additional fee may be required by the Planning Board to pay for the services of

independent consultants to review the application or portions thereof. For this purpose and at the Planning Board's discretion, an encumbered amount not to exceed \$5,000 shall be deposited by the applicant in a special account to be established by the Town of China and used only for the purposes designated. If the balance in this special account shall be drawn down by 75% the Board shall notify the applicant, and require that an additional amount of funds be deposited by the applicant. The Planning Board shall continue to notify the applicant and require additional funds be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant.

The Planning Board shall approve a Conditional Use Application if all of the following criteria are met inclusive of conditions:

- a. The proposed use will meet the definition or specific requirements set forth in this Ordinance and will be in compliance with applicable State or Federal laws.
- b. The proposed use will not create fire safety hazards by providing adequate access to the site, or to the buildings on the site, for emergency vehicles.
- c. The proposed exterior lighting will not create hazards to motorists traveling on adjacent public streets, and is adequate for the safety of occupants or users of the site, or will not damage the value and diminish the usability of adjacent properties.
- d. The provisions for buffers and on-site landscaping will provide adequate protection to neighboring properties from detrimental features of the development.
- e. The proposed use will not have a significant detrimental effect on the use and peaceful enjoyment of abutting property as a result of noise, vibrations, fumes, odor, dust, glare or other cause.
- f. The provisions for vehicular loading and unloading and parking, and for vehicular and pedestrian circulation on the site and onto adjacent public streets will not create hazards to safety.
- g. The proposed use will not have a significant detrimental effect on the value of adjacent properties or could be avoided by reasonable modification of the plan.
- h. The design of the site will not result in significant flood hazards or flood damage or is in conformance with applicable flood hazard protection requirements.
- i. Adequate provision has been made for disposal of wastewater, or solid waste, or for the prevention of ground or surface water contamination.
- j. Adequate provision has been made to control erosion or sedimentation.
- k. Adequate provision has been made to handle storm water runoff or other drainage problems on the site.

Adopted April 6, 2019  
2-58

- l. The proposed water supply will meet the demands of the proposed use or for fire protection purposes.
- m. Adequate provision has been made for the transportation, storage, and disposal of hazardous substances and materials as defined by State law.
- n. The proposed use will not have an adverse impact on significant scenic vistas or on significant wildlife habitat or could be avoided by reasonable modification of the plan.
- o. When located in the Resource Protection District, Stream Protection District, Shoreland District, the proposed use will meet the standards in Section 5 of this Ordinance.

VIII. Statement of Findings:

All decisions of the Planning Board under this section shall be accompanied by written statements that set forth with particularity the precise reasons why the findings were made.

IX. Public Hearing:

The Planning Board may hold a Public Hearing on any Conditional Use Application within 30 days of determination by the Planning Board that the application is complete. Public notice shall be given for the hearing, and all abutting landowners shall be notified by certified mail, with the applicant to be responsible for all costs of mailing and public notice.

X. Fees:

The standard fees for all permits established by this Ordinance shall be set by the Board of Selectmen on an annual basis. Those permits include, but are not limited to, Appeals Board Applications, Planning Board applications and permits, Flood Plain permits, Building permits, CEO permits, Certificates of Occupancy, Notice of Intent, and Plumbing and Wastewater Disposal System permits. In the case of Plumbing and Subsurface Wastewater Disposal System Permits the Board of Selectmen may establish fees provided that the established fees are not less than the State fees. Fees for permits required by the subdivision ordinance and sludge spreading/disposal/storage ordinance shall also be established by vote of the Board of Selectmen.

Planning Board fees and permits do not include permits such as building permits and plumbing permits. Fees shall be paid to the Municipal Treasurer. If any person, including any owner, contractor, or authorized agent, fails to obtain any permit in accordance with this Ordinance, the after-the-fact fees shall also be established by vote of the Board of Selectmen in addition to any enforcement action which may be taken, with the minimum after-the-fact fee to be no less than double the permit fee.

**XI. Construction Permit:**

Prior to the start of construction of any building or structure requiring a permit, the CEO shall be notified that construction grade stakes are in place. The CEO shall inspect the premises and if all provisions of this Ordinance have been met he shall forthwith issue a construction permit.

**XII. Permit Duration:**

- a. The purpose for which the permit is issued must commence within 12 months after the date the permit is issued. Permits shall expire and be void one year from the date of issuance if a substantial start is not made in construction on the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have an additional eighteen (18) months to complete the project, at which time the permit shall expire.
- b. Pursuant to the paragraph above, construction must be completed within 30 months after the date a permit is issued, after which time any construction which is not completed requires a new permit.
- c. To obtain a new permit under Section 6.B.I and Section 6.B.II the applicant must meet all requirements of applicable ordinances in effect at the time he applies for the new permit, including specifically any applicable changes in ordinances enacted since the initial permit was issued.

## SECTION 7. GUIDELINES FOR TIMBER HARVESTING IN CHINA

Certain logging practices that are known to cause unacceptable water pollution, are prohibited now, and will likely always be prohibited in the State of Maine. These practices are being considered for incorporation into the Best Management Practices section of Maine's Nonpoint Source Pollution Management Program. The following practices will be guidelines for forest activities in the Town of China:

### A. Planning a logging job:

- I. Keep stream crossings to a minimum. This will reduce potential erosion and stream sedimentation.
- II. Cross streams by the most direct route, at right angles to the stream and where approaches are reasonably level for a minimum of 50 feet on both sides.
- III. Steep areas and fragile areas near water shall be harvested only when the ground is frozen.
- IV. Areas with well drained soils and/or flatter slopes shall be reserved for wet weather harvesting if operations are anticipated to continue into the spring or fall.

### B. Road building:

- I. Put truck roads on high ground with easy grades (3-10% grades are desirable). Avoid long level sections of road because they are difficult to drain.
- II. Avoid long, steep grades and sharp bends.
- III. Keep roads out of wet spots and off the tops and toes of banks and slopes.
- IV. Install drainage dips on truck roads.
- V. Install cross drainage culverts under truck roads and protect the inlets with rocks or other durable material to prevent damage to the culvert and minimize erosion around it.
- VI. Ditch the sides of roads to divert water away from the road surface.
- VII. Construct ditch turnouts where the road approaches a waterway to divert water from the ditch into vegetated areas.
- VIII. Design and construct roadbeds with a 50% grade (2:1) slope on the sides within 75 feet of stream crossings and stabilize road sides near crossings by seeding, mulching and establishing vegetative cover.
- IX. Keep all roadbeds including ditches and any cuts or fills at least 25 feet from streams except when bridged.



C. Landings:

- I. Locate landings on flat or gently sloping ground with good drainage.
- II. Set landings back at least 250 feet from streams, ponds, lakes and wetlands.
- III. If it's necessary to use a low, poorly drained landing, construct water turnouts on skid roads and trails which enter the landing to prevent water from entering it.

D. Skid Trails:

- I. Keep stream crossings to a minimum.
- II. Cross streams by the most direct route, at right angles to the stream and where approaches are reasonably level for a minimum of 50 feet on both sides.
- III. Do not locate skid trails in or near stream channels.
- IV. Cross small stream channels over culverts or skidder bridges.
- V. Where skid trails approach waterways, install water bars or drainage dips to direct water off skidder trails and into vegetated areas.

E. Cutting:

- I. Keep all slash out of waterways.
- II. Maintain a filter strip 25 feet or greater along waterways.
- III. No clear cutting shall be done within 50 feet of a waterway.
- IV. No cutting shall be done in resource protection zones lying within 75 feet of Great Ponds.
- V. Remove no more than 40% of the harvestable trees, within a ten (10) year period, within 250 feet of waterways included in shoreland protection zones. This requirement also applies to areas between 75 and 250 feet from a Great Pond.

F. Finishing a job:

- I. Remove road culverts.
- II. Install water bars or drainage dips in the roadway to slow the flow of water.
- III. Revegetate landings when finished using them.

G. Equipment maintenance:

Adopted April 6, 2019  
2-62

- I. Refueling and engine or transmission oil changes shall be done in locations where a spill will not run off into surface waters.
- II. Engine and transmission oil that has been drained from machinery shall not be disposed of on the ground.

H. Pesticides:

All forestry related pesticide use shall be performed in accordance with the rules and regulations of the Maine Board of Pesticides Control.

## CHAPTER 4. PHOSPHORUS CONTROL ORDINANCE

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### SECTION 1. PURPOSE

- A. Purpose. To control the amount of phosphorus entering China Lake and Three Mile Pond from all new development.

### SECTION 2. APPLICABILITY

- A. This Ordinance shall not apply to any existing residence, or to additions thereto, or to any other existing structure or land use or to new accessory structures, or to additions of less than 1500 square feet to existing non-residential structures.
- B. This Ordinance shall apply to the following uses and structures located in the watersheds of China Lake and Three Mile Pond:
- 1) new or expanded portions of subdivisions; mobile home parks; campgrounds; commercial (new development, or expansions of existing commercial structures in excess of 1500 square feet); hazardous or solid waste disposal facilities; and
  - 2) all new principal structures requiring a permit under the Town of China Land Use Ordinance except those structures and uses exempted in paragraph A.

### SECTION 3. PHOSPHORUS EXPORT STANDARDS

Within the watershed of China Lake or Three Mile Pond, all uses and structures to which this Ordinance applies shall meet the following phosphorus export standards:

<u>Watershed</u>	<u>Phosphorus Export Standards</u>
China Lake, East Basin -	.034 pounds of phosphorus/acre/year
China Lake, West Basin -	.057 pounds of phosphorus/acre/year
Three Mile Pond -	.031 pounds of phosphorus/acre/year

### SECTION 4. SINGLE-FAMILY DWELLING, DUPLEX

In addition to the requirements of the Town of China Land Use Ordinance, the following provisions shall apply to all new single-family dwellings and duplexes:

- A. Phosphorus Control Requirement. Permit applicants must show how they will comply with the phosphorus export standards of Section 3.

- B. Buffer Strip. A new single-family dwelling or duplex shall be deemed to comply with the phosphorus export standards of Section 3 if a permanent, vegetated buffer is located downhill from the developed portion of the lot according to the requirements of Table 1 or Table 2 of this Ordinance, whichever applies. On an existing lot of record that is smaller in size than what is required in the table, the applicant shall meet the buffer width requirement to the maximum extent possible.
- C. DEP Phosphorus Control Methodology. As an alternative to Tables 1 and 2 of this Section, an applicant may utilize the phosphorus control methodology contained in DEP's Phosphorus Control Guide to calculate lot size or buffer width, or to design other phosphorus control measures that meet the phosphorus export standard. A copy of supporting documents shall be submitted with the application.
- D. Maintenance and Use of Buffer Strips, Other Measures. Homeowners and occupants shall maintain vegetated buffer strips and, if applicable, other phosphorus control measures in accordance with the buffer maintenance requirements contained in Section 5.3 of DEP's Phosphorus Control Guide.

TABLE 1			
EAST BASIN CHINA LAKE, THREE MILE POND			
Note: Lot sizes shown below are for lots with greater than 10,000 square feet of clearing per lot. For lots with less than 10,000 square feet of clearing per lot, the lot sizes in parentheses shall apply.			
	<---Buffer Width--->		
	50 feet	100 feet	150 feet
Average Slope	Lot Size Acres	Lot Size Acres	Lot Size Acres
0-3%	4.3 (2.5)	3.0 (1.75)	2.1 (1.25)
3-8%	5.5 (3.25)	3.8 (2.25)	3.0 (1.75)
8-15%	6.4 (3.75)	4.7 (2.75)	3.4 (2.0)
15-30%	6.8 (4.0)	6.0 (3.5)	4.7 (2.75)

TABLE 2			
WEST BASIN CHINA LAKE			
Note: Lot sizes shown below are for lots with greater than 10,000 square feet of clearing per lot. For lots with less than 10,000 square feet of clearing per lot, the lot sizes in parentheses shall apply.			
	<----Buffer Width---->		
	50 feet	100 feet	150 feet
Average Slope Within Buffer	Lot Size Acres	Lot Size Acres	Lot Size Acres
0-3%	2.5 (1.5)	1.75 (1.0)	1.25 (.75)
3-8%	3.3 (2.0)	2.3 (1.25)	1.75 (1.0)
8-15%	3.8 (2.25)	2.8 (1.75)	2.0 (1.25)
15-30%	4.1 (2.5)	3.6 (2.0)	2.8 (1.75)

**SECTION 5. SUBDIVISIONS**

In addition to the requirements of the Town of China Subdivision Ordinance, the following provisions shall apply to new or expanded portions of subdivisions.

- A. Phosphorus Control Requirement. Applicants for subdivision approval must show how they will comply with the phosphorus export standards of Section 3.
- B. Fees. If, in the Planning Board's judgment, consulting services are required to evaluate the phosphorus impact of the proposed subdivision application, an additional fee shall be required based on the estimated costs of such consulting services. These funds may be used by the Town for reasonable costs contracted for by the Town through the Planning Board which relate directly to the review of the phosphorus impact of the subdivision application.
- C. Application Requirement. All subdivision applications utilizing buffer strips to meet the phosphorus export standards of Section 3 shall include:
  - 1. Buffer Location. A plan showing the location and dimensions of vegetated buffer strips, and classification of the buffer as wooded or non-wooded, to be designed and maintained in accordance with the buffer-maintenance provisions contained in Section 5.3 of DEP's phosphorus Control Guide.
  - 2. Deed Restrictions. A copy of all covenants and deed restrictions, if any, to be placed on the

amount of clearing on individual lots and by which vegetated buffer strips are to be permanently maintained.

3. Buffer Maintenance. A written plan for the maintenance of buffer strips.
- D. Minor Subdivisions. Minor subdivisions shall be deemed to comply with the phosphorus export standards of Section 3 if a permanent, vegetated buffer is located downhill from the developed portion of the lot according to the requirements of Section 4, Table 1 or Table 2, whichever applies. As an alternative to these tables, an applicant may prepare a phosphorus control plan as set forth for major subdivisions in paragraph E.2 below.
- E. Major Subdivisions. Applications for major subdivisions shall include:
  1. An Erosion and Sedimentation Control Plan prepared in accordance with the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices," prepared by the Cumberland County Soil and Water Conservation District and Department of Environmental Protection, March, 1991.
  2. A Phosphorus Control Plan to meet the phosphorus export standard of Section 3 and prepared in accordance with the methodology contained in DEP's Phosphorus Control Guide. A copy of supporting documents shall be submitted with the application, including the worksheets contained in DEP's Phosphorus Control Guide, engineering calculations, a site plan showing drainage patterns and buffer locations, and detailed construction specifications and diagrams for all structural measures. The Board shall require the use of vegetated buffers, limits on clearing and minimizing road lengths, and shall encourage other non-structural measures such as clustering and reduction in the number of lots, prior to allowing the use of high-maintenance structural measures such as wet ponds and infiltration systems.
- F. Maintenance and Use of Buffer Strips, Other Measures. The applicant shall include provisions for monitoring, inspecting and maintaining vegetated buffer strips and other phosphorus control measures in accordance with DEP's Phosphorus Control Guide, including the buffer maintenance provisions contained in Section 4.D.

#### SECTION 6. OTHER USES AND STRUCTURES.

In addition to requirements of the Town of China Land Use Ordinance, applicants for permits and approvals for the following uses shall comply with all of the requirements of a major subdivision as set forth in Sections 3 and 5 of this Ordinance:

- 1) new or expanded portions of: mobile home parks; campgrounds; commercial (new development, or expansions of existing commercial structures in excess of 1500 square feet); hazardous or solid waste disposal facilities; and
- 2) new principal structures, other than single-family dwellings and duplexes, requiring a permit under the provisions of the Town of China Land Use Ordinance. Property owners

shall maintain vegetated buffer strips and other phosphorus control measures in accordance with DEP's Phosphorus Control Guide, including the buffer maintenance requirements contained in Section 5.3.

#### SECTION 7. ADMINISTRATION

Within the watersheds of China Lake and Three Mile Pond: no new or expanded portion of a subdivision may be approved under the provisions of the Town of China Subdivision Ordinance except in strict conformance with the provisions of this Ordinance; and no permit may be issued under the provisions of the Town of China Land Use Ordinance for:

- 1) New or expanded portions of: mobile home parks, campgrounds, commercial (new development, or expansions of existing commercial structures in excess of 1500 square feet), hazardous or solid waste disposal facilities; or
- 2) New principal structures;

except in strict conformance with the provisions of this Ordinance, provided that this requirement shall not apply to any existing residence or to any other existing structures or to new accessory structures.

## CHAPTER 5. FLOODPLAIN MANAGEMENT ORDINANCE

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### SECTION 1. PURPOSE AND ESTABLISHMENT

Certain areas of the Town of China, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of China, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of China, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of China has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S.A. § 3001-3007, § 4352, §4401-4407, and Title 38 M.R.S.A. § 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of China having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of China, Maine.

The areas of special flood hazard, Zones A and AE for Town of China, Maine, Kennebec County Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Kennebec County with accompanying "Flood Insurance Rate Map" dated June 16, 2011 with the following Community Panels:

380, 385, 390, 395, 405, 415, 555, 560, 600

derived from the county wide digital flood insurance rate map entitled "Digital Flood Insurance Rate Map, Kennebec County," which are hereby adopted by reference and declared to be a part of this Ordinance.

### SECTION 2. PERMIT REQUIRED

Before any start of construction or other development (as defined in the China Land Development Code, Chapter 11, Definitions), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section 1, a Flood Hazard Development Permit shall be obtained from the Planning Board. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of China, Maine.

### SECTION 3. APPLICATION FOR PERMIT

Approved March 19, 2011

5-1



The application for a Flood Hazard Development Permit shall be submitted to the Planning Board and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K(2) apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:

- 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
  - a. in Zones AE, from data contained in the "Flood Insurance Study – Kennebec County, Maine" as described in Section 1; or,
  - b. in Zone A:
    - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Section 6(K) and Section 8(D);
    - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
    - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
- 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
- 3. lowest floor, including basement; and whether or not such structures contain a basement; and,

Approved March 19, 2011

5-2

4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Section 6;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Section 6 by a registered professional engineer or architect:
  1. a Floodproofing Certificate (FEMA Form 81-65, 03/09, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Section 3(H)(4); Section 6(G).; and other applicable standards in Section 6;
  2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Section 6(L)(2)(a);
  3. a certified statement that bridges will meet the standards of Section 6(M);
  4. a certified statement that containment walls will meet the standards of Section 6(N);
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Section 6 will be met.

#### SECTION 4. APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee as shown on the fee schedule set by the Board of Selectmen shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Planning Board and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

#### SECTION 5. REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Planning Board shall:

Approved March 19, 2011  
5-3

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Section 6 (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  - 1. the base flood and floodway data contained in the "Flood Insurance Study – Kennebec County, Maine," as described in Section 1;
  - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Section 3(H)(1)(b); Section 6(K); and Section 8(D), in order to administer Section 6 of this Ordinance; and,
  - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Section 3(H)(1)(b), the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
  - 1. A two part Flood Hazard Development Permit for elevated structures. Part one shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part one permit construction, "as built", for verifying compliance with the elevation requirements of Section 6, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part two shall authorize the applicant to complete the construction project; or,
  - 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Section 6(G)(1)(a), (b), and (c). The

Approved March 19, 2011

application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Section 6.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of the China Land Development Code, Chapter 9, Appeals, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Sections 3, 6, and 7 of this Ordinance.

## SECTION 6. DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

### A. All Development

All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and,
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

### B. Water Supply

All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

### C. Sanitary Sewage Systems

All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

Approved March 19, 2011

5-5

**D. On Site Waste Disposal Systems**

On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

**E. Watercourse Carrying Capacity**

All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

**F. Residential**

New construction or substantial improvement of any residential structure located within:

1. Zones AE, shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 3(H)(1)(b); Section 5(B); or Section 8(D).

**G. Non Residential**

New construction or substantial improvement of any non-residential structure located within:

1. Zones AE, shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
  - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 3.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 3(H)(1)(b); Section 5(B); or Section 8(D), or

Approved March 19, 2011

5-6

- a. together with attendant utility and sanitary facilities meet the floodproofing standards of Section 6(G)1.

#### H. Manufactured Homes

New or substantially improved manufactured homes located within:

##### 1. Zones AE, shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
  - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
  - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
  - (3) all components of the anchoring system described in Section 6(H)(1)(c)(1 and 2) shall be capable of carrying a force of 4800 pounds.

##### 2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Section 6.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Section 3(H)(1)(b); Section 5(B); or Section 8(D).; and
- b. meet the anchoring requirements of Section 6(H)(1)(c).

#### I. Recreational Vehicles

Recreational Vehicles located within:

##### 1. Zones A and AE, shall either:

- a. be on the site for fewer than 180 consecutive days,

- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Section 6(H)(1).

#### J. Accessory Structures

Accessory Structures, as defined in Section XIII, located within Zones A and AE, shall be exempt from the elevation criteria required in Section 6(F) & Section 6(G) above, if all other requirements of Section VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Section 6(L)(2), in at least two different walls of the accessory structure;
4. be located outside the floodway;
5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

#### K. Floodways

1. In Zones AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Digital Flood Insurance Rate Map, Kennebec County unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Section 6(K)(3) unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

Approved March 19, 2011

5-8

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
3. In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. Enclosed Areas Below the Lowest Floor

New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Section 6, including the elevation requirements of Section 6, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in the China Land Development Code, Chapter 11, Definitions;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
  - a. be engineered and certified by a registered professional engineer or architect; or,
  - b. meet or exceed the following minimum criteria:
    - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
    - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
    - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,
4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. Bridges

New construction or substantial improvement of any bridge in Zones AE and A shall be designed such that:

Approved March 19, 2011

5-9



1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
2. a registered professional engineer shall certify that:
  - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 6(K); and
  - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

#### **N. Containment Walls**

New construction or substantial improvement of any containment wall located within:

1. Zones AE and A shall:
  - a. have the containment wall elevated to at least one foot above the base flood elevation;
  - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Section 3(K).

#### **O. Wharves, Piers and Docks**

New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and A, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

### **SECTION 7. CERTIFICATE OF COMPLIANCE**

Approved March 19, 2011  
5-10

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Section 6, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
  1. review the Elevation Certificate and the applicant's written notification; and,
  2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

#### SECTION 8. REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Section 6 of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## CHAPTER 9. APPEALS

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### SECTION 1. BOARD OF APPEALS

Board of Appeals: There is hereby created a Board of Appeals, which Board shall function as provided by Title 30-A, M.R.S.A., Section 2691. This Board consists of seven members appointed by the Board of Selectmen. The chairman and secretary are elected by members of this Board. The function of the Board of Appeals is to hear appeals from any decision or failure to act by the Code Enforcement Officer, Plumbing Inspector, or Planning Board with regard to this Land Development Code and to review and take action on variances.

### SECTION 2. APPEALS TO BOARD OF APPEALS

A. Variance Appeals: The Board of Appeals may, upon written application of the affected landowner, grant a variance from the strict application of Chapter 2 or Chapters 4-8 of this Land Development Code if the Board of Appeals, based on clear and convincing evidence presented to it by the applicant finds:

- I. The strict application of the terms of Chapter 2 or Chapters 4-8 would result in undue hardship to the applicant. The term "undue hardship" shall mean:
  - a. That the land in question cannot yield a reasonable return unless a variance is granted;
  - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - c. That the granting of a variance will not alter the essential character of the locality; and
  - d. That the hardship is not the result of action taken by the applicant or a prior owner; and
- II. The proposed use would meet the following standards:
  - a. Will not result in unsafe or unhealthful conditions.
  - b. Will not result in erosion or sedimentation.
  - c. Will not result in water pollution.
  - d. Will not result in damage to spawning grounds, fish, aquatic life, bird, and other wildlife habitat.

e. Will conserve shoreland vegetation.

- f. Will conserve visual points of access to waters as viewed from public facilities.
- g. Will conserve actual points of public access to waters.
- h. Will conserve natural beauty.
- i. Will avoid problems associated with flood plan development and use.

A variance is authorized only for lot area, rear, side, and road setback requirements, and shall not be granted to permit a use otherwise prohibited. A variance, however, is not authorized to permit construction of principal structures or to permit expansion, enlargement, or addition of principal structures as prohibited by Chapter 2, Section 2(D) in the Resource Protection, Stream Protection and Shoreland Districts on lots of less than 20,000 square feet.

A copy of all variances granted for the Resource Protection, Stream Protection and Shoreland Districts shall be submitted to the Department of Environmental Protection within 14 days of the decision.

III. Variances in designated flood hazard areas as set forth in Chapter 5 shall comply with the following additional standards.

- a. Variances shall not be granted within any designated regulatory floodway if *any* increase in flood levels during the base flood discharge would result.
- b. Variances shall be granted only upon a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws and ordinances; and,
- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
  - i. other criteria of Chapter 5, Section 6 are met; and,
  - ii. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- e. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in paragraphs a. through d., above.

- f. Any applicant who meets the criteria of paragraphs a. through e., above shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
  - i. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  - ii. such construction below the base flood level increases risks to life and property; and,
  - iii. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and claims the applicant may have against the municipality that are related to the use of land located in a floodplain.
- g. The Board of Appeals shall submit to the Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

#### IV. Notification

Public notice shall be given in a newspaper of general circulation for the hearing scheduled by the Appeals Board, and the abutting landowners shall be notified by certified mail, return receipt, with the applicant to be responsible for all costs of the mailing and the public notice.

B. Administrative Appeals (Land Use Ordinance, Phosphorus Control Ordinance, Floodplain Management Ordinance): The Board of Appeals may, upon written application of an aggrieved person, and/or the landowner, after public notice, hear appeals from determinations of the Planning Board or Code Enforcement Officer in the administration of Chapter 2 or Chapters 4-8 of this Land Development Code. Such hearings will be held according to State laws.

##### I. Timing and Content of Application:

- a. Any application for an appeal shall be in writing and shall be received by the Town Clerk within thirty (30) days after the date of the determination being appealed.
- b. The application shall clearly state the basis for the appeal and the specific findings of fact or conclusions of law being appealed.
- c. A copy of each request for a variance with respect to property in a Shoreland or Resource Protection District shall be forwarded by the Town Clerk to the DEP at least twenty (20)

days prior to action by the Board of Appeals, pursuant to the State Shoreland Zoning Law, 38 M.R.S.A. 438-A(6).

## II. Notice of Appeal, Record on Appeal:

- a. When an application for an appeal is filed, the Town Clerk shall immediately notify the Planning Board or Code Enforcement Officer, as appropriate, and shall inform them or him of the date, time, and place of the hearing on the appeal.
- b. The Planning Board or Code Enforcement Officer, as appropriate, shall immediately forward to the Board of Appeals the record of the proceeding on the original application. The record shall clearly state the basis for the determination being appealed, including findings of fact and conclusions of law supporting the determination.
- c. Any Planning Board member or members and/or the Code Enforcement Officer, as appropriate, shall be permitted to appear and to be heard at the hearing regarding the determination being appealed and the basis for it.

## III. Notification

Public notice shall be given in a newspaper of general circulation for the hearing scheduled by the Appeals Board, and the abutting landowners shall be notified by certified mail, return receipt, with the applicant to be responsible for all costs of the mailing and the public notice.

## IV. Scope of Review: The Board of Appeals may reverse the determination of the Planning Board or the Code Enforcement Officer if it determines that either:

- a. Any finding of fact is unsupported by substantial evidence and/or;
- b. Any conclusion of law is clearly erroneous.

## V. Remand: In the event the Board of Appeals reverses a Planning Board or Code Enforcement Officer decision, the matter will be remanded to the Planning Board or Code Enforcement Officer for proceeding in accordance with the decision of the Board of Appeals unless such reversal is appealed as provided below.

## VI. Appeals to Superior Court: An appeal may be taken within forty-five (45) days after any decision is rendered by the Board of Appeals by any party, including the Planning Board or Code Enforcement Officer, to Superior Court in accordance with State Law.

## C. Administrative Appeals - Subdivision Ordinance

### I. Appeals to the Board of Appeals

- a. An application for an appeal to the Planning Board's decision on the final plan under Chapter 3 of this Land Development Code shall be in writing and shall be received by the Town Clerk within thirty (30) days of the decision of the Planning Board.



- i. The application shall clearly state the basis for the appeal and the specific findings of fact or conclusions of law being appealed.
- b. The Town Clerk shall immediately notify the Planning Board of the appeal and shall inform them of the date, time, and place of the hearing on the appeal.
- c. The Planning Board shall immediately forward to the Board of Appeals the record of the proceeding on the original application. The record shall clearly state the basis for the determination being appealed, including findings of fact and conclusions of law supporting the determination.
- d. Any Planning Board member or members shall be permitted to appear and to be heard at the hearing regarding the determination being appealed and the basis for it.
- e. The Board of Appeals may reverse the decision of the Planning Board on that portion of the original application so affected and remand the complete application to the Planning Board for further action in accordance with the decision of the Board of Appeals if it determines that either:
  - i. Any finding of fact is unsupported by substantial evidence and/or;
  - ii. Any conclusion of law is *clearly erroneous*.

## II. Appeals to Superior Court

An appeal may be taken within forty-five (45) days after any decision is rendered by the Board of Appeals by any party, including the Planning Board, to Superior Court in accordance with State law.

## CHAPTER 10. ENFORCEMENT

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### SECTION 1. NUISANCES

Any violation of any provision of this Land Development Code shall be deemed to be a nuisance.

### SECTION 2. CODE ENFORCEMENT OFFICER

Code Enforcement Officer: The Code Enforcement Officer (CEO) shall enforce the provisions of this Land Development Code in the manner prescribed in Title 30-A M.R.S.A. Section 4452, Subsection 1.

### SECTION 3. LEGAL ACTIONS

Liability for violations: Any person, including but not limited to a landowner, his agent, or any contractor who violates a provision of this Land Development Code shall be liable for the penalties set forth in Section 4, below, of this Land Development Code.

### SECTION 4. FINES

Civil penalties: Any person convicted of a violation of this Land Development Code shall be subject to the penalties set forth in Title 30-A, M.R.S.A., Section 4452, Subsection 3.

### SECTION 5. PROCEDURE

It is the Code Enforcement Officer's responsibility to notify in writing the person accountable for violation of this Land Development Code. Said notice shall indicate the nature of the violation and specify necessary corrective action, including discontinuance of illegal use of land, buildings, structures, or work in progress, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of this notice shall be maintained as a permanent Town Record.

When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines that may be appropriate or necessary to enforce the provisions of this Land Development Code.

### SECTION 6. ADDITIONAL PROVISIONS RELATING TO CHAPTER 5, FLOODPLAIN MANAGEMENT ORDINANCE

In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration

requesting a denial of flood insurance. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## CHAPTER 11. DEFINITIONS

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Terms not defined herein shall have the customary dictionary meaning. As used in this Land Development Code, the following definitions shall apply:

**ABUTTERS:** For the purpose of notification, abutters shall include owners whose land directly touches the applicant's land as well as the owner(s) of land directly across a street from any part of the applicant's land.

**ACCESSORY USE OR STRUCTURE:** A use or structure which is incidental or subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**ADJACENT GRADE:** The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**AGGRIEVED PARTY:** A person whose land is directly or indirectly affected by the grant or denial or a permit or variance under this Land Development Code, a person whose land abuts land for which a permit or variance has been granted, or a group of five or more citizens of the municipality who represent an interest adverse to the grant or denial or such permit or variance.

**AGRICULTURE:** The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green-house products. Agriculture does not include forest management and timber harvesting activities.

**ANIMAL HUSBANDRY:** Dairying, raising of livestock, breeding, or keeping of animals, fowl, or birds as a gainful occupation.

**ANTENNA:** Any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

**ANTENNA HEIGHT:** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances, and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

**AQUACULTURE:** The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**AREA OF SHALLOW FLOODING:** A designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an

Approved April 6, 2019

11-1

average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD:** The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Chapter 5 of this Ordinance.

**BASAL AREA:** The area of cross-section of a tree stem at 4½ feet above ground level and inclusive of bark.

**BASE FLOOD:** The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

**BASEMENT:** Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level. Also, for floodplain management purposes, any area of the building having its floor subgrade (below ground level) on all sides.

**BOARDING KENNEL:** Pursuant to 7 M.R.S.A., Section 3907 "Boarding Kennel" means any place, building, tract of land, abode or vehicle in or on which privately owned dogs or other pets, or both, are kept for their owners in return for a fee.

**BOAT LAUNCH FACILITY:** A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**BREEDING KENNEL:** Pursuant to 7 M.R.S.A., Section 3907 "Breeding Kennel" means a kennel operated for the purpose of breeding or buying, selling or in any way exchanging dogs that exchanges more than twelve (12) dogs in a twelve (12) month period.

**BUILDING HEIGHT:** The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and the ridges of gable, gambrel, hip, and pitch roofs; or to the deck line of mansard roofs.

**BUILDING:** See "STRUCTURE"

**BUSINESS DIRECTORY SIGN:** A free standing business directory sign identifying names and/or uses, and/or locations in a multi-tenant (two or more) development.

**CANOPY:** The more or less continuous cover formed by tree crowns in a wooded area associated with forestry. Also, a roof-like structure providing covering, protection, or ornamentation.

**CERTIFICATE OF COMPLIANCE:** A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of Chapter 2 and Chapter 5.

**CODE ENFORCEMENT OFFICER:** A person certified under MRSA 30-A; Section 4451 and

Approved April 6, 2019

11-2

employed by a municipality to enforce all applicable laws and ordinances in the following areas:

- Shoreland zoning;
- Comprehensive planning and land use;
- Internal plumbing;
- Subsurface wastewater disposal;
- Building standards.

**COMMERCIAL CAMPGROUND:** Any premises providing temporary accommodation to the public for a fee in a recreational vehicle or tent.

**CLUSTER SUBDIVISION:** A subdivision in which the lot sizes are reduced below those normally required in the district in which the development is located in return for the provision for permanent open space owned in common by lot/unit owners, the Town, or a land conservation organization approved by the Town. The total of the land in development and open space shall not be less than that required if the dwelling units were on full size individual lots.

**COLLOCATION:** The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

**COMMERCIAL STRUCTURE:** Any building or other structure, except a single or two-family dwelling, intended for commercial use, or which houses goods or equipment for that purpose. Buildings which are primarily dwellings or accessories to dwellings used for a home occupation are not considered commercial.

**COMMERCIAL USE:** The use of lands, buildings, or structures as, other than a "home occupation," the intent and result of which activity is the production of income from the buying and selling of goods and/or services, or the provision of non-residential facilities for a fee, and exclusive of rental of residential buildings and/or dwelling units. (See Home Occupation)

**COMPLETE APPLICATION:** An application shall be considered complete upon submission of the required fee and all information required by these regulations, or by a vote of the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.

**CONDOMINIUM:** One or more multi-family housing units on the same common lot in which the dwelling units are individually owned.

**CONFORMING USE:** A use of buildings, structures, or land which complies with all applicable provisions of this Land Development Code.

**CONTIGUOUS LOTS:** Lots which adjoin at any line or point, or are separated at any point by a body of water less than fifteen feet wide.

**CONVERSION:** Conversion of a seasonal dwelling located in the Shoreland or Resource Protection District to a year-round dwelling means a change of occupancy from seasonal to year-round or principal dwelling. For purposes of this Land Development Code, conversion of such a seasonal dwelling to a year-round dwelling shall be a change of use.

Approved April 6, 2019

11-3

**CROSS SECTIONAL AREA:** The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

**DEP'S PHOSPHORUS CONTROL GUIDE:** "Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development," Maine Department of Environmental Protection, Revised March 2016.

**DESIGNATED SCENIC RESOURCE:** That specific location, view, or corridor, as identified as a scenic resource in the municipally adopted comprehensive plan or by a State or Federal Agency that consists of:

1. A three dimensional area extending out from a particular view point on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such as a downtown skyline or mountain range, resulting in a panoramic view corridor; or
2. Lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

**DEVELOPED AREA:** Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

**DEVELOPMENT:** Any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities. Also, a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring. Improvements such as replacing windows, doors, roofing and siding materials, painting and replacement of plumbing fixtures in-kind are considered normal maintenance and shall not be deemed part of this definition.

**DEVELOPMENT RIGHTS:** The rights of an owner of land to make site improvements or changes including but not limited to buildings, landscaping, parking areas, and streets. If the development rights to a piece of land are transferred to the Town or a conservation organization approved by the Town, the Town or such organization may permit site improvements or changes necessary to and consistent with the traditional use of the land prior to the transfer of the development rights.

**DIAMETER BREAST HEIGHT (DBH):** The diameter of a standing tree measured 4.5 feet from ground level.

Approved April 6, 2019

11-4



**DIMENSIONAL REQUIREMENTS:** Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**DISABILITY:** A person who has a physical or mental impairment that substantially limits one or more major life activity. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability..

**DISRUPTION OF SHORELINE INTEGRITY:** The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

**DRIVEWAY:** A vehicular access-way serving no more than one lot.

**DWELLING:** A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters. The term shall include mobile homes, but not recreational vehicles.

**SINGLE-FAMILY DWELLING:** A building containing only one (1) dwelling unit.

**TWO-FAMILY DWELLING (DUPLEX):** A building containing only two (2) dwelling units.

**MULTI-FAMILY DWELLING:** A building containing three (3) or more dwelling units, such buildings being designed for residential use and occupancy by three (3) or more households; with the number of households not exceeding the number of dwelling units.

**DWELLING UNIT:** A room or suite of rooms which contains independent living, cooking, sleeping, bathing and sanitary facilities designed for use by a single household or family.

**ELEVATED BUILDING:** A non-basement building:

1. Built, in the case of a building in Zones AE and A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, posts, piers, or "stilts"; and
2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of flood waters.

**ELEVATION CERTIFICATE:** An official form (FEMA Form 086-0-33, March 2018, as amended) that:

1. Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and

Approved April 6, 2019  
11-5

2. Is required as a condition for purchasing flood insurance.

**EMERGENCY OPERATIONS:** Emergency operations shall include operations conducted for the public health, safety, or general welfare such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

**EMERGENCY SERVICES OR PUBLIC SAFETY:** A use or structure for which the primary use is to provide non-profit municipal, State or County emergency medical, fire, or police services to protect the health, safety and welfare of the public.

**ESSENTIAL SERVICES:** Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers (including communication towers), utility poles and wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**EXCAVATION:** A process of creating a cavity by cutting, dragging, digging, or scooping.

**EXPANSION OF A STRUCTURE:** An increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

**EXPANSION OF USE:** The addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

**FAA:** The Federal Aviation Administration, or its lawful successor.

**FACADE:** The facade of a building is the face of the building on which the primary entrance is located, regardless of the orientation of the building on the lot. The area of the facade shall include all portions of the building which are visible in an elevation view, regardless of fenestrations, setbacks, or other wall breaks. It does not include any portions of the roof visible from the front elevation.

**FAMILY:** One or more persons occupying a premises and living as a single housekeeping unit.

**FCC:** The Federal Communications Commission, or its lawful successor.

**FILLING:** To bring to the desired level, shape, smoothness, or condition by introducing other materials.

**FINAL PLAN:** The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, must be recorded at the Registry of Deeds.

**FLOOD or FLOODING:**

Approved April 6, 2019  
11-6

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1.a of this definition.

**FLOOD ELEVATION STUDY:** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**FLOOD INSURANCE RATE MAP (FIRM):** An official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.

**FLOOD INSURANCE STUDY:** See "FLOOD ELEVATION STUDY"

**FLOODPLAIN or FLOOD-PRONE AREA:** Any land area susceptible to being inundated by water from any source (see definition of "flooding").

**FLOODPLAIN MANAGEMENT:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**FLOODPLAIN MANAGEMENT REGULATIONS:** Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provides standards for the purpose of flood damage prevention and reduction.

**FLOOD PROOFING:** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY:** See "REGULATORY FLOODWAY"

**FLOODWAY ENCROACHMENT LINES:** The lines marking the limits of floodways on Federal, State, and local floodplain maps.

**FLOOR AREA:** The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls plus the horizontal area of any unenclosed portions of a structure such as porches

Approved April 6, 2019

11-7

and decks. This includes the floor of the basement, as defined.

**FOOTPRINT:** The entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**FOREST MANAGEMENT ACTIVITIES:** Timber cruising and other forest resources evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar associated activities, exclusive of timber harvesting and the construction, creation, or maintenance of roads.

**FORESTED WETLAND:** A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

**FOREST STAND:** A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

**FOUNDATION:** The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

**FRESHWATER WETLAND:** Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**FREEBOARD:** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for any unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**FRONTAGE, SHORE:** The horizontal distance measured in a straight line between the intersections of the side lot lines with the shoreline at the normal high water mark.

**FUNCTIONALLY WATER-DEPENDENT USE:** Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that cannot be located away from these waters. The uses include, but are not limited

Approved April 6, 2019

11-8

to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreland structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

**GREAT POND:** Any inland body of water which in a natural state has a surface area in excess of ten acres, any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres, and any natural inland body of water which originally had a surface area of ten acres or less which has been artificially enlarged to a surface area in excess of thirty (30) acres, except where the artificially formed or enlarged inland body of water is completely surrounded by land held by a single owner.

**GREAT POND CLASSIFIED GPA:** Any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

**GROUND COVER:** Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**HARVEST AREA:** The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

**HAZARD TREE:** A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

**HEIGHT OF A STRUCTURE:** The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure excluding chimneys and antennas.

**HIGH INTENSITY SOIL SURVEY:** A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey.

**HISTORIC OR ARCHAEOLOGICAL RESOURCES:** Resources that are:

Approved April 6, 2019

11-9

1. Listed individually in the National Register of Historic Places on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by Secretary of the Interior through the Maine Historic Preservation Commission; or
5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

**HISTORIC DISTRICT:** A geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the municipality's comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

**HISTORIC LANDMARK:** Any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the municipality's comprehensive plan, which have been on the National Register of Historic Places.

**HISTORIC STRUCTURE:** Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior, or

Approved April 6, 2019

11-10

- b. Directly by the Secretary of the Interior in states without approved programs.

**HOME OCCUPATION:** A commercial activity which results in a product or service intended for financial gain conducted in whole or in part on the same premises where the owner of the occupation resides and:

1. Which is clearly incidental to and compatible with the residential use of the property and surrounding residential uses,
2. Which may be carried on in the principal structure or an accessory structure,
3. Which will not exceed 1,000 square feet of structures, nor exceed the coverage of the principle use structure, and
4. Which employs no more than three (3) persons other than family members.

**INCREASE IN NONCONFORMITY OF A STRUCTURE:** Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

**INDIVIDUAL PRIVATE CAMPSITE:** Any premises providing temporary accommodation in a recreational vehicle or tent and used exclusively by the owner of the property and his or her family and friends.

**INDUSTRIAL/COMMERCIAL PARK OR DEVELOPMENT:** A subdivision planned for industrial and/or commercial uses and developed and managed as a unit, usually with provision for common services for the users.

**INDUSTRIAL STRUCTURE:** Any building or structure, except a single or two-family dwelling, intended for the making of goods and articles by hand or by machinery including assembly, fabrication, finishing, warehousing, packaging and processing. This term shall include any building or structure which houses goods or equipment for that purpose. Buildings which are primarily dwellings or accessories to dwellings used for a home business are not considered industrial. (See Home Occupation)

**INDUSTRIAL USE:** The use of real estate, buildings or structures or any portion thereof, for assembling, fabricating, finishing, warehousing, manufacturing, packaging or processing operations involving goods, or for warehousing and distribution of goods; or the extraction of

Approved April 6, 2019

11-11

minerals. Uses conducted in buildings which are primarily dwellings or accessory to dwellings as home businesses are not considered industrial. (See Home Occupation)

**INLAND WETLANDS:** Areas enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of soils, vegetation, or other criteria as inland wetlands including but not limited to swamps, marshes or bogs.

**INSTITUTIONAL:** A non-profit or quasi-public use such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

**INTERMITTENT STREAM:** Flowing water, resulting from surface water runoff or the position of the ground water table, which occurs for a period of more than three (3) consecutive months during the year, or appearing as a solid and dashed (blue) line on the most recent United States Geological Survey Topographic map (7 ½ minute series) of the Town of China.

**KENNEL:** Pursuant to 7 M.R.S.A., section 3907 a "Kennel" means 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.

**LAND MANAGEMENT ROAD:** A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

**LICENSED FORESTER:** A forester licensed under 32 M.R.S.A. Chapter 76.

**LINE OF SIGHT:** The direct line of vision from one point to another.

**LOCALLY ESTABLISHED DATUM:** For the purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

**LOT TERMS:**

**LOT:** A parcel of land having distinct and defined boundaries and described in a registered deed, plot plan, or similar legal document.

**LOT AREA:** The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two lots.

**LOT OF RECORD:** A parcel of land of which a legal description or the dimensions are recorded on a document or map on file with the Kennebec County Registry of Deeds on or prior to January 1, 1989.

Approved April 6, 2019  
11-12



**LOT WIDTH:** Width between side lot lines measured at the intersection with the street right-of-way line.

**LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Chapter 5, Section 6 of this ordinance.

**MANUFACTURED HOME PARK OR SUBDIVISION:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MANUFACTURED HOME:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**MANUFACTURED HOUSING:** A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For the purpose of this section, two types of manufactured housing are included. Those two types are:

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes", which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit:

This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.

2. Those units commonly called "modular homes", which the manufacturer certifies are constructed in compliance with Title 10, Chapter 975, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

Approved April 6, 2019

11-13

For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**MARINA:** A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

**MARKET VALUE:** The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

**MEAN SEA LEVEL:** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MINERAL EXPLORATION:** Hand or mechanical sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**MINERAL EXTRACTION:** Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

**MINIMUM LOT WIDTH:** The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**MINOR DEVELOPMENT:** All development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

**MOBILE HOME PARK:** A parcel of land under unified ownership approved by the Town of China for the placement of three (3) or more manufactured homes.

**NATIONAL GEODETIC VERTICAL DATUM (NGVD):** The national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

**NATIVE:** Indigenous to the local forests.

Approved April 6, 2019  
11-14

**NEW CONSTRUCTION:** Structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**NON-CONFORMING CONDITION:** Non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

**NON-CONFORMING LOT:** A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, setback, lot coverage, or width requirements of the district in which it is located.

**NON-CONFORMING STRUCTURE:** A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**NON-CONFORMING USE:** Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**NON-NATIVE INVASIVE SPECIES OF VEGETATION:** Species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

**NON-RESIDENTIAL SUBDIVISION:** A subdivision, as defined in Title 30-A M.R.S.A. Section 4401, Subsection 4.

**NORMAL HIGH WATER MARK OF INLAND WATERS:** Normal high-water line - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. (By way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: water lily, pond lily, pickerel weed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined (rockslides, ledges, rapidly eroding or slumping banks), the normal high water mark shall be estimated from places where it can be determined by the above method.

**NORTH AMERICAN VERTICAL DATUM (NAVD):** The national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to

Approved April 6, 2019

11-15

replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

**ONE HUNDRED YEAR FLOOD:** See "BASE FLOOD"

**OFFICIAL SUBMITTAL DATE:** The date upon which the Town issues a receipt indicating an application has been submitted.

**OUTLET STREAM:** Any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

**PARABOLIC ANTENNA:** An antenna which is bowl-shaped, designed for the reception and or transmission of radio frequency communications signals in a specific directional pattern. (also known as a satellite dish antenna or parabolic dish)

**PERMITTED USE:** A use specifically allowed by an ordinance. A permit may or may not be required.

**PERSON:** An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

**PIERS, DOCKS, WHARVES, and OTHER STRUCTURES AND USES EXTENDING OVER and BEYOND THE NORMAL HIGH-WATER LINE OR WITHIN A WETLAND:**

**TEMPORARY:** Structures which remain in or over the water for less than seven (7) months in any period of 12 consecutive months.

**PERMANENT:** Structures which remain in or over the water for seven (7) months or more in any period of 12 consecutive months.

**PLANNING BOARD:** The Planning Board of the Town of China, created under Title 30 M.R.S.A., Section 4964.

**POND:** Any inland body of water which has a surface area in excess of ten (10) acres, except where such body of water is manmade and in addition is completely surrounded by land held by a single owner, and except those privately-owned ponds which are held primarily as waterfowl and fish breeding areas or for hunting and fishing.

**PRELIMINARY SUBDIVISION PLAN:** The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

**PRINCIPAL STRUCTURE:** A structure that is used for principle use and is not an accessory to that use.

**PRINCIPAL USE:** A use other than one which is wholly incidental or accessory to another use on the same lot.

Approved April 6, 2019  
11-16

**PRIVATE WAY OR PRIVATE ROAD:** A way designated for private use and maintained by a property owner or group of property owners.

**PRIVY:** A pit in the ground into which human excrement is placed.

**PUBLIC FACILITY:** Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

**PUBLIC UTILITY:** Any person, firm, corporation, municipal department, board, or commission authorized to furnish electricity, communication facilities, transportation, or water to the public.

**RECENT FLOOD PLAIN SOILS:** The following soils as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick	Alluvial	Cornish	Rumney	Suncook	Saco
Lovewell	Sunday	Medomak	Ondawa	Podunk	Charles	Winooski	

**RECONSTRUCTION:** Restoration, remodeling, or rebuilding of a structure.

**RECORDING PLAN:** The Final Plan which is recorded at the Registry of Deeds.

**RECREATIONAL FACILITY:** A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

**RECREATIONAL VEHICLE:** A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

**REGULATORY FLOODWAY:**

1. The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; and
2. When not designated on the community's Digital Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

**REPLACEMENT SYSTEM:** A subsurface waste-water disposal system intended to replace:

1. An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or

Approved April 6, 2019

11-17

2. Any existing overboard wastewater discharge system.

**REPAIR:** A routine maintenance of a structure and/or use for the purpose of preserving its useful life. Repair does not include the construction or reconstruction of a structure and/or use.

**RESIDUAL BASAL AREA:** The average of the basal area of trees remaining on a harvested site.

**RESIDUAL STAND:** A stand of trees remaining in the forest following timber harvesting and related activities.

**RESUBDIVISION:** The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

**RIPRAP – ROCKS:** Irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**RIVER:** A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

**RIVERINE:** Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**ROAD:** A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined. Also, see "Street."

**ROAD LINE:** A dividing line between a lot, tract, or parcel of land and the right-of-way or easement of a contiguous road. When a road line cannot be determined, the road line will be assumed to be no less than twenty-five (25) feet from the center line of the traveled surface for the purpose of determining setback only.

**SAPLING:** A tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

**SEEDLING:** A young tree species that is less than four and one half (4.5) feet in height above ground level.

**SEASONAL DWELLING:** A seasonal dwelling is a dwelling which has not been utilized as a year-round or principal dwelling during the period from January 1, 1984 to March 1, 1985.

**SERVICE DROP:** Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. In the case of electric service

Approved April 6, 2019  
11-18

- a. The placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
  - b. The total length of the extension is less than one thousand (1,000) feet.
2. In the case of telephone service
- a. The extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
  - b. The extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**SETBACK:** The minimum horizontal distance from a street line or a lot line to the nearest part of a building or structure, including any overhangs such as decks, eaves, steps, or any other projecting part of the building or structure. Also, the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

**SETBACK FROM WATER:** The nearest horizontal distance from the normal high water line to the nearest part of a building or structure, including any overhangs such as decks, eaves, steps, or any other projecting part of the building.

**SHORELAND BUFFER:** A strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland.

**SHORE FRONTAGE:** The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

**SHORELAND ZONE:** The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

**SHORELINE:** The normal high-water line, or upland edge of a wetland.

**SIGNIFICANT RIVER SEGMENTS:** For list of significant river segments see 38 M.R.S.A. Section 437.

**SIGN:** Any advertising or informational notice or part thereof, or any attachment to any structure, upon which there is painted, represented or displayed any letter, word, model, banner, flag, Pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. The word "sign" does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement, or event.

Approved April 6, 2019  
11-19

**SIGN AREA:** That portion of a sign which contains advertising content. Advertising content shall include all text, graphics, logos or symbols that advertise goods or services available on the premises. Where the advertising content is only a portion of a larger structure, such as painted onto a wall, the sign area shall be calculated as the smallest rectangle that can encompass the content. Where a sign contains advertising content on two opposing faces, the area shall be calculated as the size of a single face.

**SKID ROAD OR TRAIL:** A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

**SLASH:** The residue, e.g., treetops and branches, left on the ground after a timber harvest.

**START OF CONSTRUCTION:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, substantial improvement or other improvement was within one (1) year of the permit date, or for floodplain management purposes within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basements, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**STORM-DAMAGED TREE:** A tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

**STREAM:** A free-flowing body of water from the outlet of a great pond or the point of confluence of two (2) perennial streams as depicted on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geographical Survey or the national map to the point where the stream becomes a river, or to another water body or wetland within the shoreland area.

**STREET:** Public and private ways such as alleys, avenues, boulevards, highways, roads, circles, drives, lanes, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way.

**STREET CLASSIFICATION:**

**ARTERIAL STREET:** A major thoroughfare which serves as a major traffic way for travel through the municipality.

**COLLECTOR STREET:** A street servicing at least fifteen lots or dwelling units, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

Approved April 6, 2019  
11-20



**INDUSTRIAL OR COMMERCIAL STREET:** Streets servicing industrial or commercial uses.

**MINOR STREET:** A street servicing fewer than fifteen lots or dwelling units.

**PRIVATE RIGHT OF WAY:** A vehicular access way serving dwelling units, which is not intended to be dedicated as a public way, and is so designated on the Final Plan.

**STRUCTURE:** Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, attached or unattached, but exclusive of fences and utility poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, Quonset-hut style shelters, and satellite dishes. Also, for floodplain management purposes, a walled and roofed building such as a gas or liquid storage tank that is principally above ground is also a structure. A structure does not include subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

**STRUCTURE COVERAGE:** When calculating the percentage of lot coverage taken up by a structure, the area of the structure including the foundation and, in addition, any overhangs including decks, eaves, steps, or any other projecting part of the building.

**SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**SUBSTANTIAL IMPROVEMENT:** Any repair, reconstruction, or improvement of a structure, the value of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition, "substantial improvement" is considered to occur at the time of the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**SUBSTANTIAL START:** Completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Approved April 6, 2019  
11-21

**SUBSURFACE SEWERAGE DISPOSAL SYSTEM:** Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

**SUBDIVISION:** As defined in Title 30-A M.R.S.A., Section 4401, Subsection 4.

**SUBDIVISION, MAJOR:** Any subdivision containing more than four (4) lots or dwelling units, or any subdivision containing a proposed street, or any subdivision containing one or more commercial units.

**SUBDIVISION, MINOR:** Any subdivision containing four (4) lots or dwelling units or less, and in which no street is proposed to be constructed.

**SUSTAINED SLOPE:** A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**TARGETED MARKET COVERAGE AREA:** The area which is to be served by this proposal.

**TIMBER HARVESTING:** The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (I), Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting. Timber harvesting does not include the clearing of land for approved construction or permitted uses.

**TIMBER HARVESTING AND RELATED ACTIVITIES:** Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

**TRACT or PARCEL OF LAND:** All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, or a private road established by the abutting land owners, or by a municipal boundary.

**TRIBUTARY STREAM:** A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

**NOTE:** Water setback requirements apply to tributary streams within the shoreland zone.

Approved April 6, 2019  
11-22

**UNIT:** Includes dwelling units as well as commercial units.

**UNREASONABLE ADVERSE IMPACT:** That the proposed project would produce an end result which is:

1. Excessively out-of-character with designated scenic resources affected, including existing buildings structures and features within the designated scenic resource, and
2. Would significantly diminish the scenic value of the designated scenic resource.

**UPLAND EDGE OF A WETLAND:** The boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

**VARIANCE:** A grant of relief by a governing board from the terms of the China Land Development Code.

**VEGETATION:** All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

**VEGETATED BUFFER STRIP:** An undeveloped land area with sufficient plant life to control storm water runoff and limit the export of the nutrient phosphorus.

**VEHICULAR ACCESSWAY:** A street or driveway, except a driveway serving a single residential dwelling unit, allowing the simultaneous passage of two standard passenger vehicles and meeting the minimum standards to allow access by fire-fighting equipment.

**VIEWPOINT:** That location which is identified either in the municipally adopted comprehensive plan or by a Federal or State agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

**VIOLATION:** The failure of a structure or other development to fully comply with China's Land Development Code.

**VOLUME:** The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of the walls and roof. This includes basements, as defined.

**WATER BODY:** Any great pond, river or stream.

**WATER CROSSING:** Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fjords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

**WELL DISTRIBUTED STAND:** A well distributed stand of trees shows patterns of the natural

Approved April 6, 2019

11-23

character of a healthy shoreline forest and includes consideration of such things as, but not necessarily limited to, soil capability, aspect and slope, species diversity of the site, as well as the horizontal and vertical structure of the tree stand, and the health and quality of both the tree stand itself and also of individual trees within the stand.

**WETLAND:** A freshwater wetland.

**WILD CROPS:** Vegetation, not cultivated nor tended, for the purpose of consumption.

**WINDFIRM:** The ability of a forest stand to withstand strong winds and resist wind throw, wind rocking, and major breakage.

**WIRELESS TELECOMMUNICATIONS TOWER AND FACILITY:** (1) A parcel of land containing a tower, sending and receiving antennas attached to the tower, and a prefabricated or modular structure or cabinets containing electronic equipment; (2) a Federal Communications Commission (FCC)-licensed facility, designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various wireless communication devices and equipment. For purposes of this Ordinance, amateur radio transmission facilities and facilities used exclusively for receive-only antennas are not classified as wireless telecommunications towers and facilities.

**WOODY VEGETATION:** Live trees or woody, non-herbaceous shrubs.

Approved April 6, 2019  
11-24

Town of China, Maine CEO Permit Application

2018-21

Applicant Marie Bourque-Namer  
Mailing Address PO Box 6445 China Village 04926-0445  
Property Owner Nicholas Namer  
Property Location Gilman Drive - Sunset Pines  
Email address SunsetPinesChinaLakeMaine@gmail.com

Map 63 Lot 22  
Deed - Book 12881 Page 144  
Phone (applicant's) (207) 650-5761  
Owner (cell) (978) 549-2512  
(other #) \_\_\_\_\_

This property is in:  Rural  Shoreland  Resource Protection  Stream Protection

This application is for: (check all that apply)

- Well
- Road Construction
- Sign
- Pier or Dock
- Clearing for approved construction
- Filling or Earth-Moving (up to 100 yards)
- Commercial Paving
- Fuel Tank Removal or Reinstallation
- Private Campsite
- Mineral Exploration
- Gravel Pit
- Other Private campsite move on property

Project Description: (include dimensions and descriptions)

We request to relocate the campsite previously located on the east side of the property nearest to RT 202, to a site adjacent to cabin 12 on the same property (same septic system) for the purpose of property oversight. This is to be occupied less than 120 days a year. The camper is identified as a PMRV-park model rv. See attachments

**Standard Conditions of Permit:** Visit [www.china.govoffice.com](http://www.china.govoffice.com) for China's Land Development Code.

1. The property owner/applicant/contractor shall comply with the China Land Development Code.
2. All dimension requirements including setbacks from property lines, lot coverage and lot area shall be maintained.
3. Erosion control measures shall be maintained as indicated in permit.
4. The applicant is responsible for contacting the CEO for all required inspections giving a minimum 24 hours notice to the CEO. Messages left on the CEO's phone do not constitute notice.
5. The applicant is responsible for following submitted plans.
6. Permission for the Town to enter onto the property during reasonable hours to conduct inspections is hereby granted.
7. The applicant hereby certifies that all information contained in this application is true and correct.
8. The applicant must comply with all special conditions as noted by the CEO on the reverse side of this document.

**YOU MUST SKETCH YOUR PLANS FOR YOUR APPLICATION TO BE REVIEWED.**

DATE: August 15, 2018

SIGNATURE: Marie Bourque-Namer

REVISED 11/2015

The following is a list of other information that you must furnish. If you don't know the setbacks and/or dimensions, you must go out and measure before completing this application!

Road setback	<u>170</u>	road frontage	<u>100</u>
Side setbacks	<u>20</u> & <u>7</u>	water frontage	<u>167</u>
Rear setback	<u>30</u>	water setback	<u>139</u>

Please sketch your lot on a separate piece of paper or below with all dimensions, showing any buildings as they appear on the lot, along with proposed additions, decks, accessory buildings, or garages. In addition to the above list, please show where any of the following are located on the property: well & septic, any wetlands, rights-of-way, driveways, north arrow, and anything else which might assist the code officer in determining where your new building/addition will be located on your property. Your application will not be reviewed until a sketch is received.

Condition of permit.

1. The park model RV or any other RV replacing the current RV shall be occupied not more than 120 days per calendar year (typically mid May to mid Sept).
2. Additional RV's shall not be occupied on this lot, except for up to three days.

CEO USE ONLY

CEO PERMIT # 2018-21

Receipt #
Date <u>8-21-18</u>

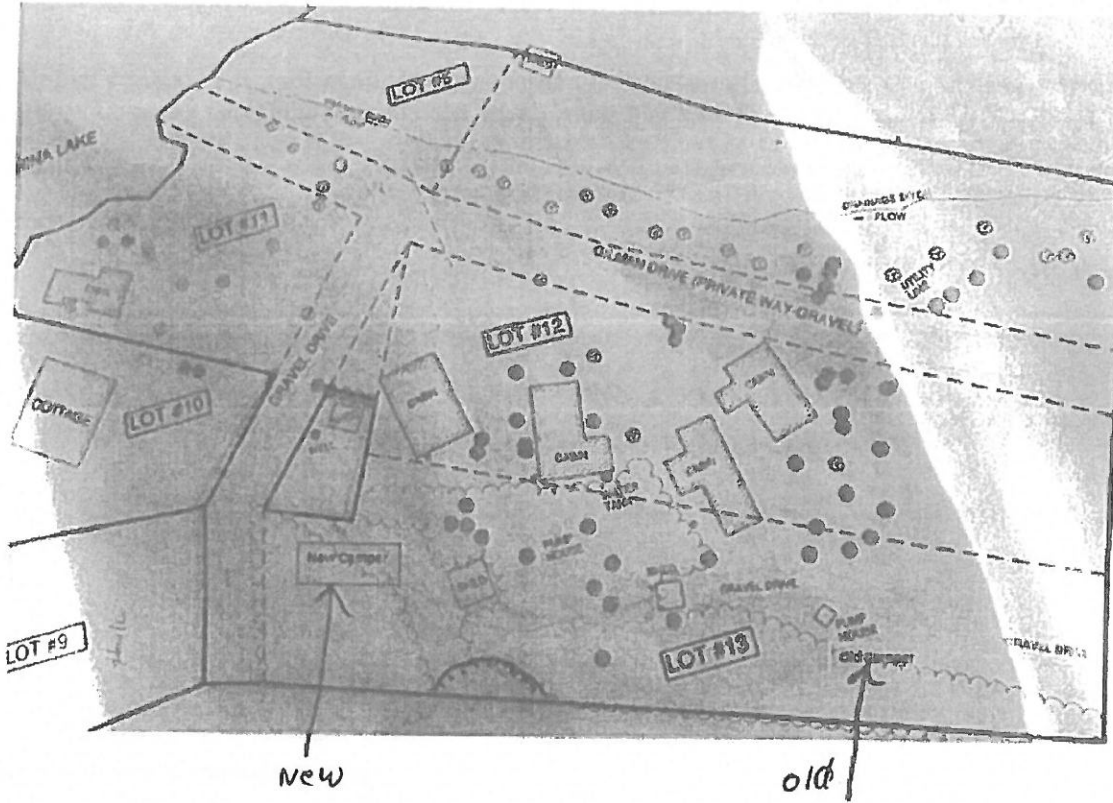
Special conditions of permit: See above  
Erosion control required: \_\_\_\_\_ Type: \_\_\_\_\_ Inspection of erosion control: \_\_\_\_\_

This permit expires if: Substantial construction is not started by \_\_\_\_\_  
The project is not completed by \_\_\_\_\_  
campsite already established per approval by CEO.  
TOTAL FEE DUE: \$ 20

Notes: \_\_\_\_\_

Signed: Paul Mitroch Date: 8-21-18  
CEO, Plumbing and Building Inspector

The image below shows the location of the old campsite (red) as well as the new campsite location (blue).



**PAT JACKSON INC. - TRI-CITY  
SEPTIC TANK CLEANING SERVICE  
P.O. BOX 691  
AUGUSTA, MAINE 04332  
(207) 623-3223 • 622-2567**

9AM - 12PM

Ordered by:	PO #	Phone	Date
		607-852-8447	9/26/17
NAME: <i>Joeli Wamer</i>			
ADDRESS: <i>Gilman Dr. China</i>			
SOLD BY	TRUCK #	RC	BILL CASH CHECK MC/VISA
			<input checked="" type="checkbox"/> <i>on file</i>
QTY	DESCRIPTION		AMOUNT
	HT - Grease		
	on - Evaluation		<i>200.00</i>
	<i>inks 1.5 fill she</i>		
	<i>inks.</i>		
	<i>soon as you pull</i>		
	<i>an Dr. 4 yellow</i>		
	<i>f it fails</i>		
	<i>and let her</i>		
	<i>o can't make</i>		
		TAX	<i>30.00</i>
		TOTAL	<i>300.00</i>
<input type="checkbox"/> Recommend Risers <input type="checkbox"/> Need Cover <input type="checkbox"/> affle or Filter Needed <input type="checkbox"/> Recommend Evaluation Customer Notified ics. 1 1/2% per month interest after 30 days.			

(207) 623-3223  
PAT JACKSON INC  
163 PENNEY ROAD  
BELGRADE, ME 04917

09 26 2017  
CREDIT CARD  
VISA SALE

16:12:11  
XXXXXXXXXXXX9261  
8  
100  
8  
06332D  
Manual  
Online  
YY

Card #:  
SEQ #:  
Batch #:  
INVOICE  
Approval Code  
Entry Method  
Mode:  
Avis Code:

SALE AMOUNT \$300.00

CUSTOMER COPY

PJI is not responsible for damage to covers, driveways & lawns during time of service.

**No. 221421**

*Thank You*





**Pat Jackson Inc. / Tri-City**  
**Septic Tank Cleaning Service**

**Inspection Number: 2017 - 8103 - 4698**

**----- Septic System Inspection -----**

**Date Ordered:** 09/20/2017  
**By Whom:** Jodi Namer  
**Requesting Agency**  
**Date Completed:** 09/26/2017

**Telephone:**

**Name/Own:**  
**Site Address:** Gilman Dr  
4 Yellow Camps  
CHINA, ME 04358

**Billing Name:** Jodi Namer  
**Billing Address:** 4 Howard St

**Phone Number**

**Phone Number:** SCARBOROUGH, ME 04070  
(617)852-8444

**Picture Numbers:**

**Inspection conducted by:** Steve Quimby

**Section A: Preliminary Information**

Page 2

1. Estimated age of dwelling: ..... 1960's
2. Estimated age of sewage disposal system currently in use: ..... Mid 1990's
3. Most recent number of people occupying dwelling: ..... 0
4. Is dwelling currently being occupied: ..... No
5. If dwelling is presently unoccupied, for how long has it been vacant: Seasonal  
NOTE 5A: If vacancy is greater than one week or the system has only been minimally used, only estimations and opinions may be given as to the functional operations and performance of the system when put into use.
6. Type of water source: ..... Drilled Well
7. Is the dwelling occupied only on a seasonal basis: ..... Yes  
If yes, at what frequency : Summers
8. When was the treatment tank last pumped: ..... Unknown  
What is the typical pumping frequency: ..... Unknown  
NOTE 8A: If the sewage disposal system has not been serviced within the past two years then the treatment tank may need to be pumped through the main central manhole.

**Pump the tank if you know that the following conditions exist:**

- a. The tank has an unplugged hole and or possible structural damage
- b. You do not have enough background information (ie service records) to evaluate the present condition of the tank.

**Exception**

If the system is overloaded, DO NOT PUMP until the root cause of the condition is remedied. Pumping the system would not allow an objective inspection if a second opinion is sought.

After you pump a tank, keep detailed records on file that include:

- Was treatment tank or absorption system overloaded?
- Did the absorption system flow effluent back into the treatment tank?

9. Has the washing machine water been disconnected from the sewage disposal system: ..... Unknown

**SEE SECTION G - Item # 5**

**Section B: Treatment Tank**

Septic Tank:	Yes	Est Capacity:	750 Gallon
Pump Tank:	No	Est Capacity:	
Grease Trap:	No	Est Capacity:	
Other Tank:	No	Est Capacity:	

**Section C: Condition of Treatment Tank**

1. When the tank was last pumped, were these components inspected at that time ..... Sat
2. Top/Cover - 20" ..... Sat
- 2a Inlet Cover - 14"x16" ..... Sat
- 2b Outlet Cover - 14"x16" ..... Sat
3. Inlet Baffle - ..... Sat
4. Outlet Baffle - ..... Sat
5. Liquid Level - ..... Sat
6. Thickness of Scum ..... 0 inches ..... Sat
7. Depth of Sludge ..... 6 inches ..... Sat
8. Elec./Mech. Operations of Pumps ..... Sat
9. Line between Treatment Tank and Absorption System. . . Sat

\*Satisfactory is based on opinions, on condition, operation, and/or whether

the component would be judged adequate by current standards

**Section C Comments (See Appendix 1)**

**Section D: Absorption System**

Page 3

Est Cesspool:		Est Capacity:	
Est Seepage Bed:		Est Absorption Area:	
Est Trench System:		Est Absorption Area:	
Chambers:	Plastic Infiltrators	Est Absorption Area:	6 rows of plastic infiltrators in step down series, each row was 62'+/- in length.

Other (Specify):

**Section E: Condition of Absorption System**

- |   |     |
|---|-----|
| 1. Was treatment tank pumped?   | No  |
| -Was tank pumping recommended?  | No  |
| -Was liquid level at the invert of the outlet pipe in the treatment tank? | Yes |
| 2. Evidence of Current Failure?   | No  |
| 3. Indications of previous failures:                                      | No  |
| **If yes, please comment**  |     |
| 4. Is seepage visible on the lawn?  | No  |
| Is lush vegetation present?   | No  |
| 5. Does effluent discharge on the ground or into a body of water?         | No  |

**Section E Comments (See Appendix 2)**

**Section F: Checklist Summary**

- |   |     |
|---|-----|
| 1. Is the treatment tank currently satisfactory, and in good working condition?                   | Yes |
| 2. Is the absorption system currently satisfactory* and in good working condition?                | Yes |
| 3. Is a pump necessary to transport effluent from the treatment tank to a soil absorption system? | Yes |
| If yes, is pump operation satisfactory?   | Yes |
| 4. Is a pump necessary to transport sewage from the home to the tank?                             | N/A |
| If yes, is pump operation satisfactory?   | N/A |
- \*Satisfactory is based on opinions, on condition, operation, and/or whether the component would be judged adequate by current standards

**Section G: Company Disclaimer**

- All statements are the opinions of Pat Jackson Inc.**
- In order to do a thorough inspection of a septic system, Pat Jackson Inc. must physically dig up covers on septic tanks and inspection holes. These will be conducted with the least disruption of property as reasonably possible.
  - Based upon our opinions and observations and our considerable experience in on site wastewater technology, we submit this Septic System Inspection Checklist based on the present condition of the on-site sewage disposal system. Our company has not been retained to warrant, guarantee, or certify the proper functioning of the system for any period of time in the future. Because of the numerous factors (usage, soil characteristics, previous failures, ground water, etc.) which may affect the proper operation of a septic system as well as the inability of our company to supervise or monitor the use or maintenance of the system, this report shall not be construed as a warranty by our company that the system will function properly for any particular perspective buyer. Pat Jackson Inc. disclaims any warranty, either expressed or implied, arising from the inspection of the septic system or this checklist. We are also not ascertaining the impact the system is having on the ground water.
  - During winter months with extreme weather conditions (snow & frost) Pat Jackson Inc can only make estimated based on the inspectors best judgments and opinions. Pat Jackson Inc. will return if retained to re-inspect the system during the summer months when snow and frost are gone to verify estimation and opinions.
  - Pat Jackson Inc. recommends second opinions and will supply names of other companies doing inspections if called

5. Maine Subsurface Disposal Rules require the washing machine to be connected to the septic tank or put into an approved gray water system.
6. Pat Jackson Inc finds and located septic systems on the ground and does not determine property lines or location of systems in relation to property lines. If this is needed a licensed land surveyor should be retained for this purpose.
7. This report shall remain the sole property of Pat Jackson, Inc. Pat Jackson, Inc. reserves the right to distribute this report at it's sole discretion.

Thank you for allowing us the opportunity to be of service.  
If you have any additional questions please do not hesitate to call.

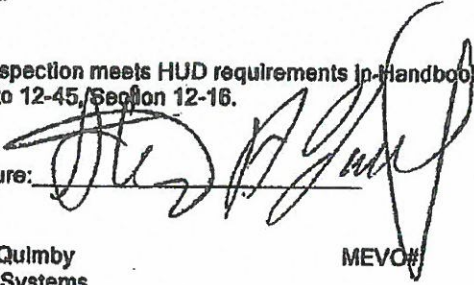
**INSPECTING COMPANY:**

Pat Jackson Inc.  
P.O. Box 691  
Augusta Maine 04332  
Office: (207) 623-3223  
Fax: (207) 495-2731

I have studied the information contained herein and assert that my assessment is honest, thorough, and to the best of my ability true and correct.

This inspection meets HUD requirements in Handbook 4150, Rev-1, Page 12-42 to 12-45, Section 12-16.

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



Date: \_\_\_\_\_

9/29/17

Steve Quimby  
Septic Systems  
Inspector  
Pat Jackson, Inc

MEVO#

546

**Treatment Tank:**

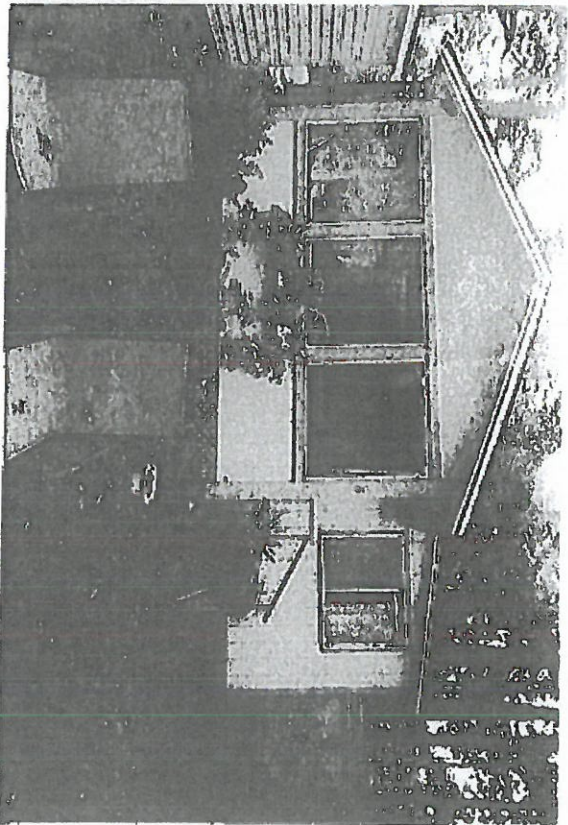
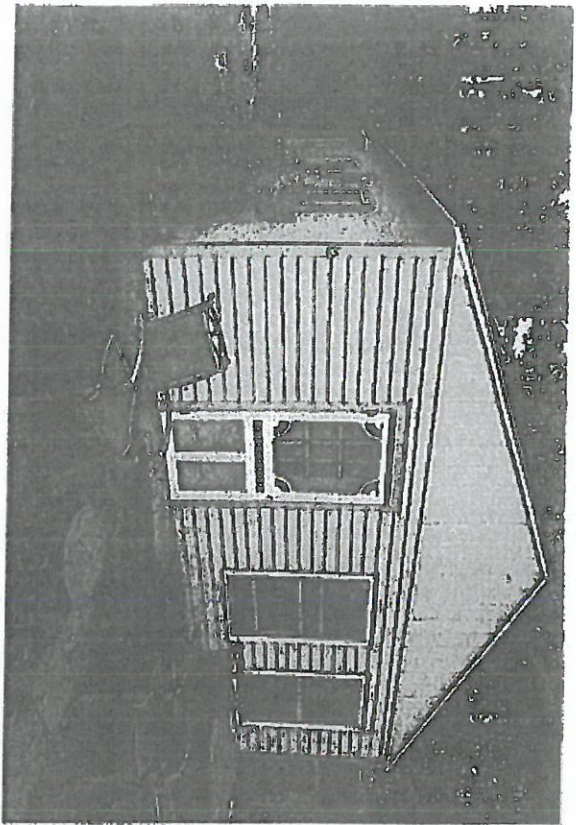
On the day of the inspection a 750 gallon concrete septic tank and a 3'x3' well tile pump station were located. They service camps 6+8 (first two camps). The outlet cover of the septic tank was located and exposed. The liquid level was at the invert of the outlet pipe. The inlet and outlet baffles were satisfactory. The center cover has a concrete cinder block riser with a well tile top at ground level. The cinder blocks are allowing dirt and water to enter the tank due to the spaces between them because of the way they were placed on top of the tank. The cover to the pump station was removed for the inspection. The pump was cycled 4-5 times and was operational. In my opinion the septic tank itself and the pump station were satisfactory on the day of the inspection.

Note: There is low grade electrical wires and septic cords on top of the ground that run from the camps to the pump station. Camp #6- The shower discharges onto the ground due to the broken p.v.c. pipe. Camps 10+12- There was only a 3'x3' well tile pump station located behind camp #10. The pump was not working and there was roughly 4' of water above the pump. This could be a grinder pump, but no tank was located for cabins #10-12. Once the pump station is pumped out and the pump has been fixed then P.J.I. can revisit the property to inspect the system for #10+12.

**Appendix 2 - Gilman Dr Septic Inspection**

**Absorption Area:**

On the day of the inspection the absorption area located was constructed of 6 rows of plastic infiltrators in step down series, each row was 62'+/- in length. The distribution box was located and exposed and was satisfactory. A test pit was dug down by an infiltrator in row 2 and the coarse gravel fill was dry, clean and with no sign of bio-mat. There was no liquid within the infiltrator. Water was introduced into the absorption area 100+/- gallons and no pooling occurred in the test pit nor did it back up into the distribution box. Only row 1 is presently in use leaving rows 2-6 to still come into use. In my opinion the absorption area was in satisfactory condition on the day of the inspection.



Pat Jackson Inc. Tri-City  
Septic Tank Service

SEPTIC SYSTEM INSPECTION

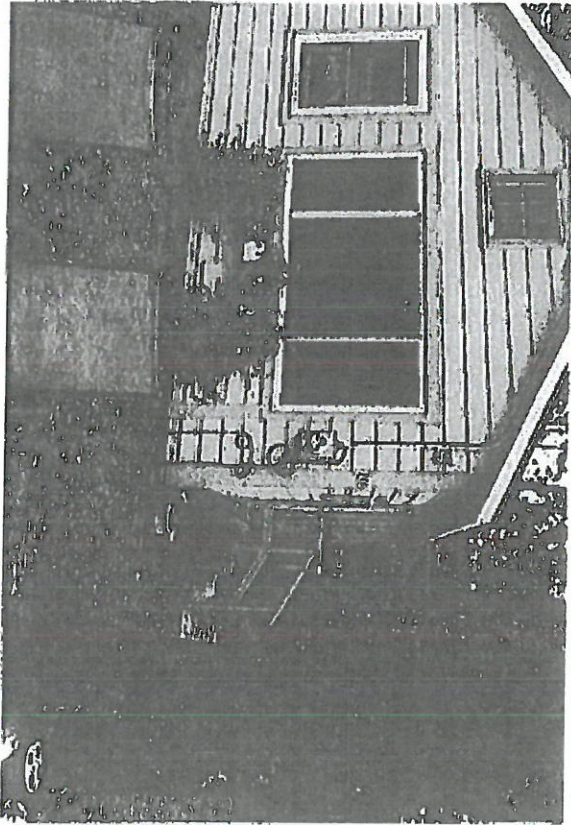
Name:

Jodi Warner

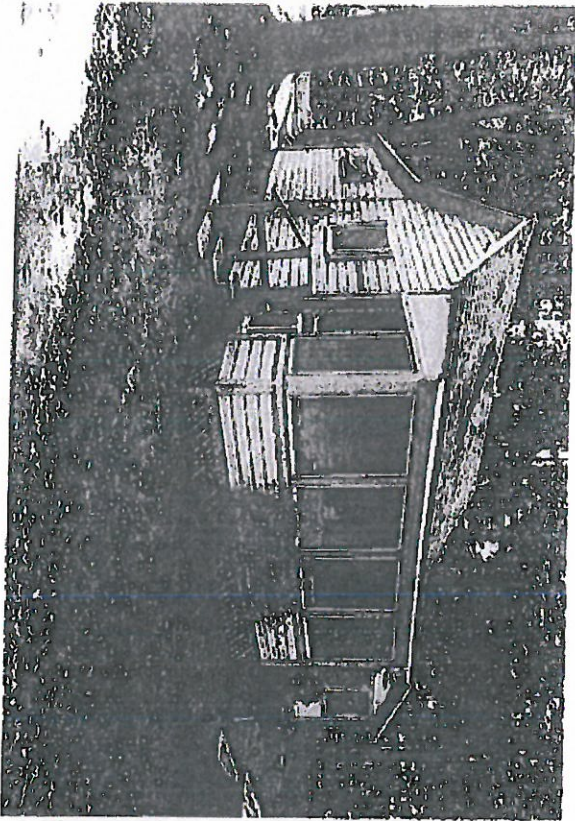
511 main Dr

Location

Chino Me



Camp to Broken Pipe

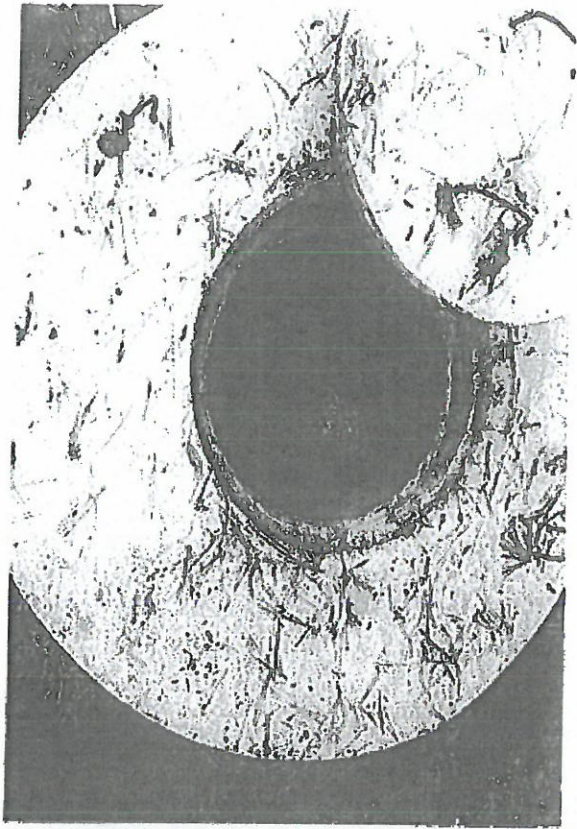


Camps 10+12 pump station



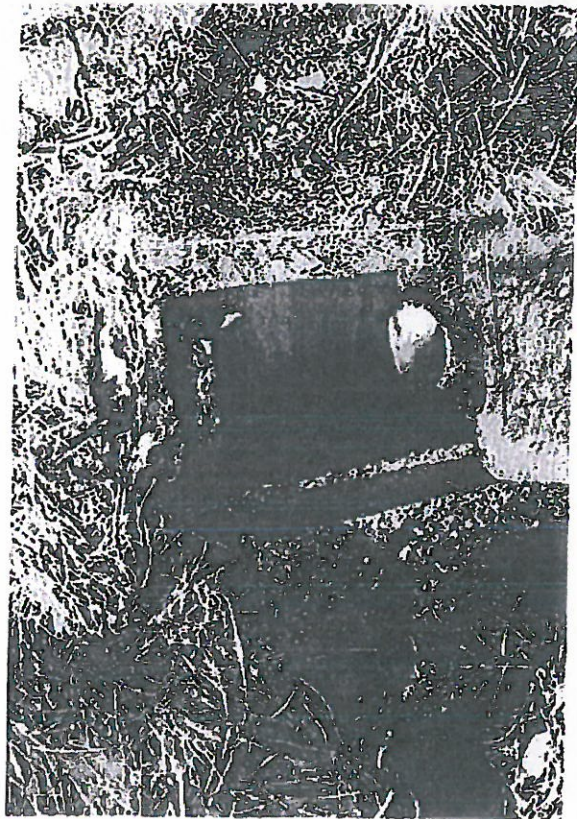
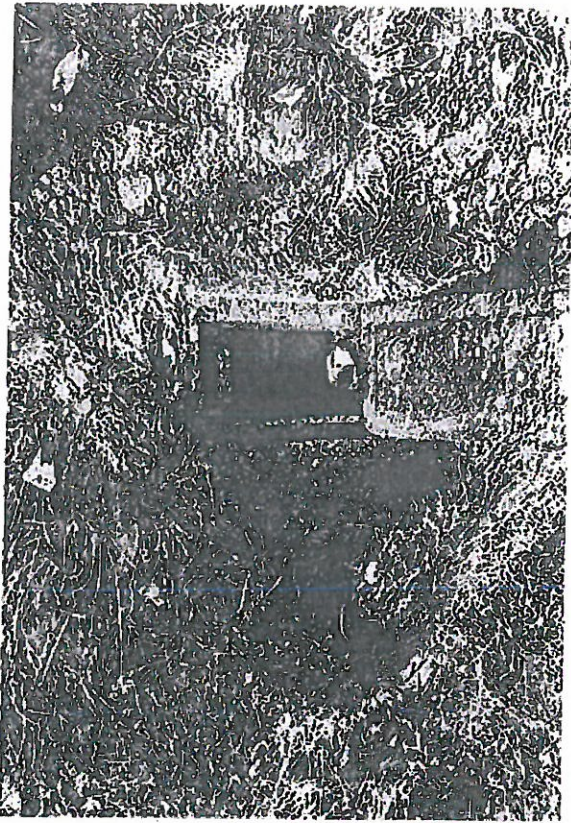
Camp to Broken Pipe from Camp to tank finished up with



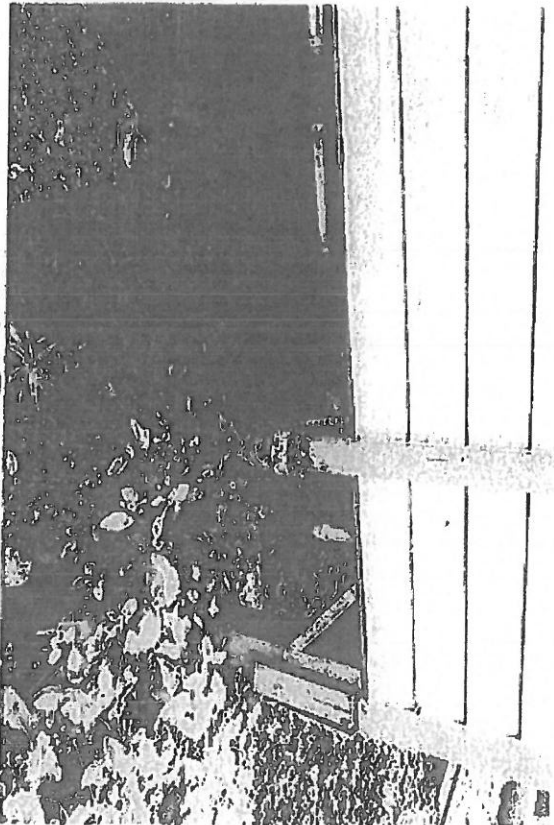
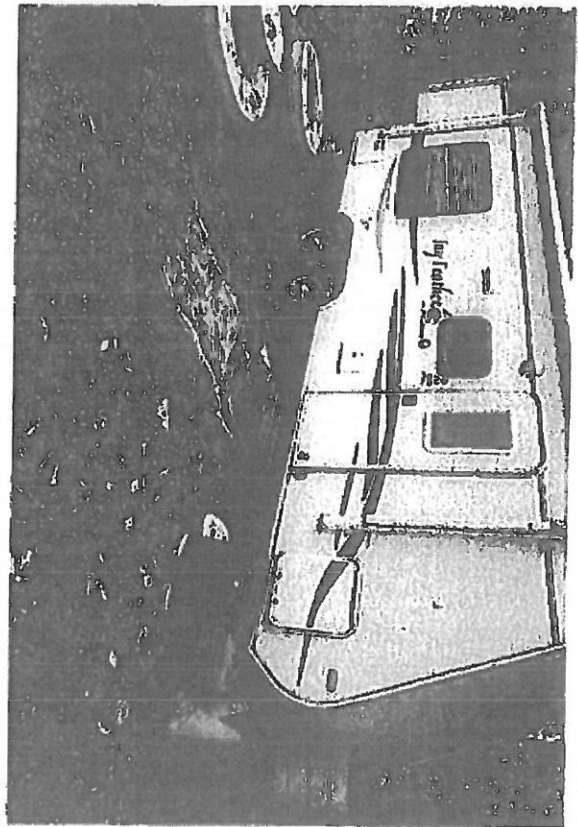
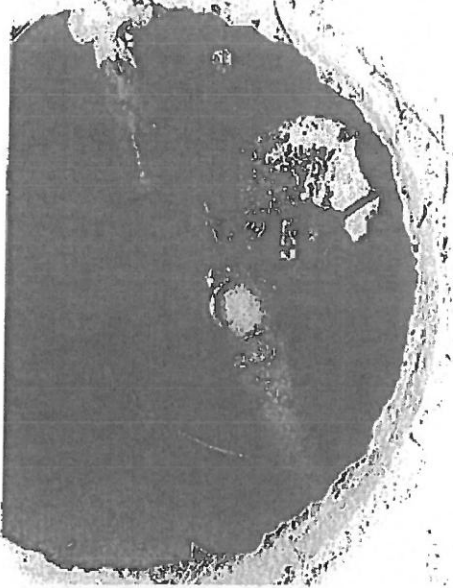
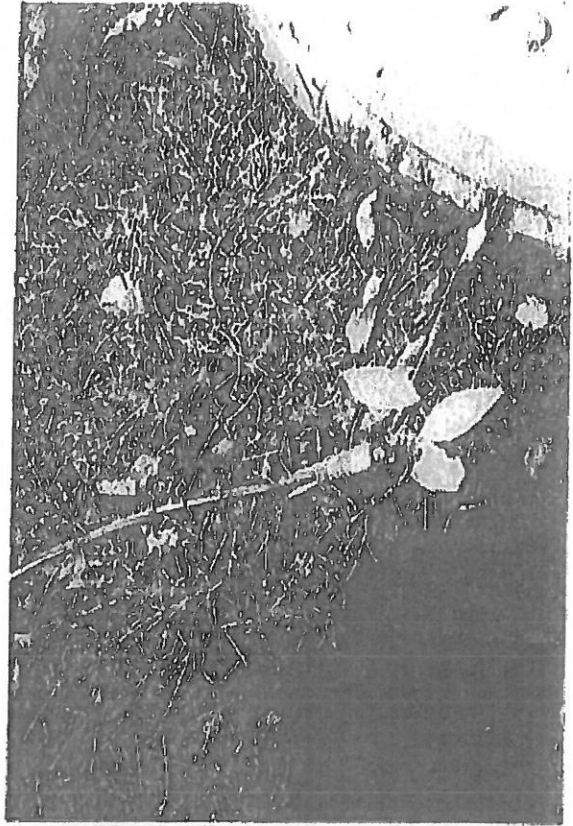


Riser on Septic Tank  
For Camps 6+8





Electric Lines to Turbidity



Cast Iron pipe from Camp 6+8  
to Septic Tank



State of Maine Vehicle Registration

Exp. Date is Validation Date By Net Prior To: 08/01/2018

YEAR MAKE MODEL

2017 SKYL 500CTM GY

Expires: 08/31/2019

CLASS REGISTRATION NUMBER

TL B853369

NET WEIGHT REGISTERED WEIGHT FUEL

AXLES

THICKS

CT 6 3

Base 32.07

Mil. Rate 0.0175

Local 563.62

Ex Tax 563.62

Ex Tx Bel 08/01/2018

Ex Tx Date 20.00

Fees 4.00

Agent Fee MM66350

CTA #

-CAMPER TL

4-21287626

User Id CIL E-Correct

WWW.MAINE.GOV/SOS

REGISTRATION # 1SV900R3XHM000122

NAME: DANIELLE

UNIT # 08/02/1982

REGISTRATION ADDRESS 635 MOUNTAIN ROAD

WOOLWICH ME 04579

LEGAL RESIDENCE 635 MOUNTAIN ROAD

WOOLWICH ME 23100

REGISTRATION VALIDATION VALIDATED REGISTRATION

UNLESS VALIDATED REGISTRATION

23100 08/02/2018

31287642

PT

Tax Receipt #: 21287642

Sticker # (M)

WWW.ME.GOV

MYR-28 Rev. 08-2016 REGISTRATION

# SHORE PARK

## 12' SERIES PARK MODELS STANDARD FEATURES

### LIVING AREAS

- Upgrade Carpet
- Valance with 1½" Wood Blinds
- Large Cove at Ceiling
- Phone Jack
- TV Jack
- Chandelier Dining Light
- 52" Paddle Fan

### KITCHEN

- Flat Panel Cabinetry Available in Two Styles
  - Shaker Hardwood Espresso Oak Doors and Face Frames
  - Hardwood Maple Doors and Face Frames
  - White and Gray Vacuum-Pressed Doors and White and Gray Face Frames
- Drawer Over Door Base Cabinet Construction with Soft Close Drawer Guides
- Modular Cabinet System with Adjustable Shelves and O.H. Bottom Light Rail
- Two Shelves in Base Cabinet
- Stainless Steel Sink
- Single Lever Faucet at Sink with Sprayer
- 16 Cu. Ft. Double Door Frost-Free Refrigerator
- 30" Deluxe Gas Range
- Spacesaver Microwave Range Hood
- Valance with 1½" Wood Blinds
- Large Cove Above Cabinets
- Cabinet Above Refrigerator
- Deluxe Cabinet Door and Drawer Hardware
- 6" Ceramic Tile Backsplash

### BATHROOM

- Flat Panel Cabinetry Available in Two Styles
  - Shaker Hardwood Espresso Oak Doors and Face Frames
  - Hardwood Maple Doors and Face Frames
  - White and Gray Vacuum-Pressed Doors and White and Gray Face Frames
- Fiberglass Tub with Full Surround (most models)
- Single Lever Faucet at Lav
- Privacy Locks
- Towel Bar and Paper Holder
- Power Vent Fan with Light - Fan Only at Loft Models
- Elongated China Commodes
- China Sink with Overflow and Pop-Up Drain
- 6" Ceramic Backsplash at Lav

### BEDROOM

- Upgrade Carpet
- Valance with 1½" Wood Blinds
- Mirrored Wardrobe Doors with Drawers Below (per floor plan)
- Ventilated Wire Shelving
- Phone Jack
- TV Jack

### ADDITIONAL FEATURES

- ANSI 119.5 Approved
- Cathedral Ceiling or Flat Ceiling (per floor plan)
- Detachable Hitch
- Shingle Roof with Ridge Vent
- 25-Year Shingles
- Vinyl Lap Siding
- Deadbolt at Rear Door
- Sliding Glass Door (Insulated)
- Exterior Light at All Exterior Doors
- Single Hung Vinyl Windows
- Egress Windows in Bedrooms
- Window Grids
- Exterior GFI Protected Receptacle
- Textured Ceiling
- LED Lighting Throughout
- Carpet Pad with Tack Strip
- Gas Furnace
- 20 Gallon Electric Water Heater
- PEX Water Lines
- Iron Gas Piping with Shut-off Valves
- Water Shut-off Valves Throughout
- White Interior Passage Doors
- Pre-Finished Door Jambs
- Insulation: R-22 Roof, R-11 Floor and R-11 Walls
- The Higher the "R-Value" the Greater the Insulation Power.
- 7'-6" Sidewall Height (per floor plan)
- 2 x 4 Sidewall, 16" O. C.
- 2 x 6 Floor Joists, 16" O. C.
- CO<sub>2</sub>/Smoke Detector with Battery Backup and False Alarm Control
- Fiberglass Insulated Heating Runs
- Toe Kick Registers in Kitchen and Bath
- LP Detector
- Fire Extinguisher

For your comfort and safety, Skyline park model designs are approved and inspected for conformance to RPTIA standards. Overall length does not include approximately four foot hitch. Room sizes are measured from floor ends and wall centers.

Because of progressive product improvement, all prices and specifications are subject to change without prior notice or obligation to Skyline Corporation. Your Retailer, an independent contractor, who is not an agent of Skyline Corporation, is the party responsible for your purchase contract and any additions, deletions, alterations, or attachments made to or in your park model.

# MANUFACTURER'S CERTIFICATE OF ORIGIN — PARK TRAILER —

The undersigned manufacturer hereby certifies that the new Park Trailer described below, the property of said manufacturer, has been transferred this 7TH day of APRIL, 2016 on Invoice No. 554562 to SPEEDWAY HOMES whose address is 785 MAIN STREET  
OXFORD, ME 04270

Trade Name of Park Trailer	<u>STONE HARBOR</u>	Series or Model Name	<u>500CTM</u>
Sq. Feet	<u>399</u>	Model Year	<u>2017</u>
Unit Type	<u>PARK MODEL</u>	No. of Wheels	<u>6</u>
Length	<u>40'9"</u> ft. including Hitch	<u>36'9"</u> ft. excluding Hitch	
Serial No.	<u>V311-0122-J</u>	Width	<u>12'</u>
VIN No.	<u>1SV900R3XHM000122</u>	Shipping Weight	<u>20,016 LBS.</u>
Date of Manufacture	<u>APRIL</u> month	<u>2016</u> year	

Other Data: \_\_\_\_\_

This park trailer was manufactured in accordance with the Department of Housing and Urban Development Standards \_\_\_\_\_ or ANSI Standard A119.5 x.

Said manufacturer hereby certifies that this written instrument constitutes the first conveyance of said vehicle after its manufacture and that the manufacturer's serial number set forth above has not been and will not be used by the manufacturer on any other vehicle manufactured by said manufacturer, and that there are no other manufacturer's certificates issued by the manufacturer for the vehicle described above.

SKYLINE (HOMETTE CORP)  
\_\_\_\_\_  
manufacturer

by  DIVISION MANAGER  
sign name title or position

SKY 901, 04/15/99

## Recreation Vehicle Trailer Bill of Sale

BE IT KNOWN, that for payment in the sum of \$29,000, the full receipt of which is acknowledged, the undersigned Speedway Homes, 785 Main Street, Oxford, ME 04270 (Seller) hereby sells and transfers to Danielle E. Namer, 635 Mountain Road, Woolwich, ME 04579 (Buyer), the following described recreation vehicle (RV) trailer:

<b>Make: STONE HARBOR</b>	<b>Model: 500 - CTM</b>
<b>Year: 2017</b>	<b>Color: GRAY</b>
<b>VIN #: 1SV900R3XHM000122</b>	<b>Style: PARK MODEL TRAILER</b>
<b>Serial No: V311-0122-J</b>	<b>Square Feet: 399</b>
<b>Shipping Weight: 20,016 lbs.</b>	<b>No. of Wheels: 6</b>

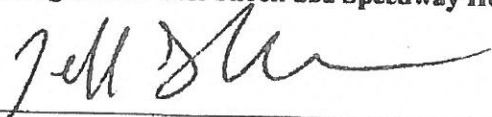

This park trailer was manufactured in accordance with the Department of HUD ANSI Standard A119.5.

**The sale is subject to the following conditions and representations:**

Seller acknowledges receipt of \$29,000 payment in full for the Recreation Vehicle Trailer, from the Buyer, as well as sales tax of \$1,595 (5.5%). Total paid in full \$30,595 to Speedway Homes.

Seller warrants to Buyer that Seller has good and marketable title to said property, full authority to sell and transfer said property, and that said property is sold free of all liens, encumbrances, liabilities, and adverse claims of every nature and description whatsoever.

Seller has no knowledge of any hidden defects in and to the Vehicle, and believes to the best of the Seller's knowledge that the Vehicle being sold is in good operating condition. Skyline Corporation 15-month warrantee is included in the purchase price.

<b>Date signed:</b> 7/12/2018
<b>Seller Signature:</b> Jeff Shock dba Speedway Homes 
<b>Buyer Signature:</b> Danielle Namer 



APPLICATION FOR CERTIFICATE OF TITLE (MVT-2)

- Check if supplemental application (\$33.00 fee required)  
 Check if rush requested - (Additional \$10.00 fee required)

CTA

MM63350

THIS IS NOT A CERTIFICATE OF TITLE

**INSTRUCTIONS** Typewrite or print legibly on hard surface. Distribute copies as indicated at bottom of form. If vehicle is new, attach a manufacturer's certificate of origin to original copy; for used vehicle, attach last previous certificate of title.

FEE \$33.00

OWNER INFORMATION	1. Name(s) Last, First, Middle Initial (conjunction "or" not permitted) a. <u>Danielle Namer</u> Joint ownership <input type="checkbox"/>		2. Date(s) of birth (M/D/Y) a. <u>8/2/82</u>		3. Telephone <u>650-7172</u>	
	b. _____ MSRP INSTRUCTIONS		b. _____		MSRP equals the total vehicle price minus the destination charge on new vehicles requiring the Monroney label. If the vehicle is used, list the MSRP if recorded on previous Maine title. DO NOT attach Monroney label to application.	
VEHICLE INFORMATION	4. Mailing address-No. & Street (if P.O. Box, # 6. must be completed) <u>635 Mountain Rd</u> City: <u>Woolwich</u> State: <u>ME</u> Zip Code: <u>04579</u>			5. MSRP <input checked="" type="checkbox"/> New: Recorded on Monroney Label <input type="checkbox"/> Used: Recorded on prior title <input type="checkbox"/> Not required MSRP Amount: <u>\$29,000</u>		
	6. Legal residence, if other than mailing address			7. If a leased vehicle, name and address of lessee		
LIEN INFORMATION	8. Year <u>2017</u>	9. Make <u>Skylark</u>	10. Model <u>Park model</u>	11. Vehicle identification number <u>1SV900R3X000122</u>		12. Body type
	13. New <input checked="" type="checkbox"/> Used <input type="checkbox"/> Rebuilt <input type="checkbox"/>	14. Purchase date Mo./Day/Year <u>7/12/18</u>	15. Previous title no. <u>MCC</u>	16. State of origin <u>ME</u>	17. Other data BMV USE	
SELLER INFORMATION	18. Current odometer reading <input type="checkbox"/> MI. <input type="checkbox"/> KM. <input type="checkbox"/> DO NOT ESTIMATE - NO TENTHS			19. Mileage stated is <input type="checkbox"/> Actual mileage <input type="checkbox"/> In excess of mechanical limits <input type="checkbox"/> Not actual - odometer discrepancy		20. If not actual <input type="checkbox"/> Odometer changed <input type="checkbox"/> Odometer broken MUST FILE MVT-32
	21. First lien holder's name if vehicle financed. If no lien, state "none." <u>Midcoast FCU Bath ME</u>			22. Date of lien Mo./Day/Year <u>6/21/18</u>		
	23. Address-No. & Street <u>831 middle ST</u>			24. Second lien holder's name		
	25. Date of lien Mo./Day/Year <u>04530</u>			26. Address-No. & Street City State Zip Code		
SIGNATURE OF SELLER OR DEALER	27. Name and address of seller <u>Speedway Homes Inc.</u> <u>785 main street Oxford ME</u>			28. Plate #, if a Maine licensed dealer <u>135</u>		
	29. The undersigned hereby certifies that the vehicle described was sold to the owner(s) named and further certifies that the information shown is true and correct to the best of my knowledge, information and belief. <u>[Signature]</u> <u>VP</u> <u>6/21/18</u> Signature of dealer's representative Official title Date					
READ FINALITY BEFORE SIGNING	30. The undersigned hereby certify that all liens against the vehicle described are listed above and that information contained herein is true and correct to the best of my / our knowledge and belief. If representing a company, I further certify that I have been authorized by the company to sign on their behalf. <u>[Signature]</u> <u>7/12/18</u> Signature(s) of owner(s) as named in block #1. All owners must sign. Power(s) of attorney must accompany this form. If under age 18 parent or guardian must also sign. Date					
	If owner is a company, authorized representative sign here. _____ Official title Date					
REALITY	A person who uses a false or fictitious name or address, makes a material false statement, fails to disclose a security interest, or conceals any other fact in an application for certificate of title is guilty of a Class D crime.					



# TOWN OF CHINA CEO PERMIT

\*\*\*\*\*

DATE: 8/21/2018 PERMIT #: 2018-21

ISSUED TO: Namer, Nicholas  
PO Box 6445 MAP: 63  
China Village, ME 04926 LOT: 022

PHYSICAL ADDRESS: Gilman Drive

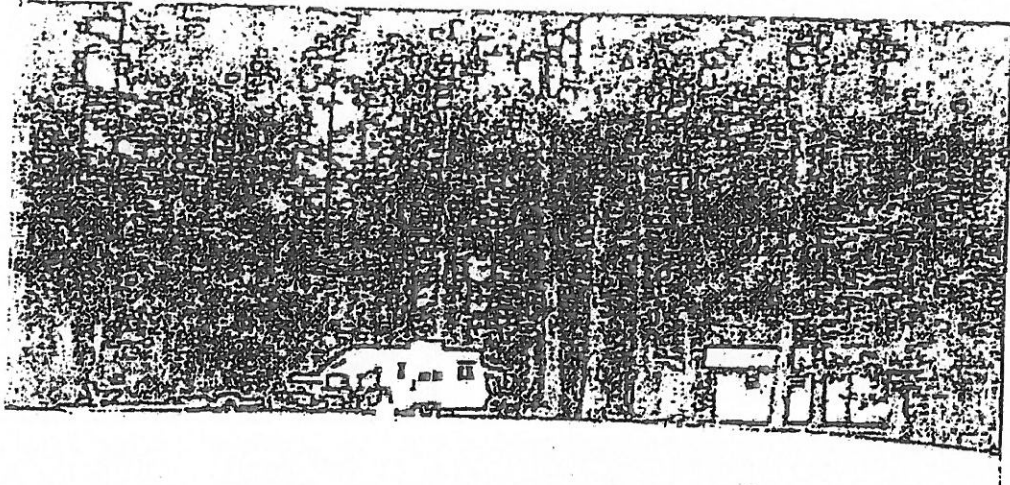
**THE TOWN OF CHINA HEREBY ISSUES THE FOLLOWING PERMIT:**

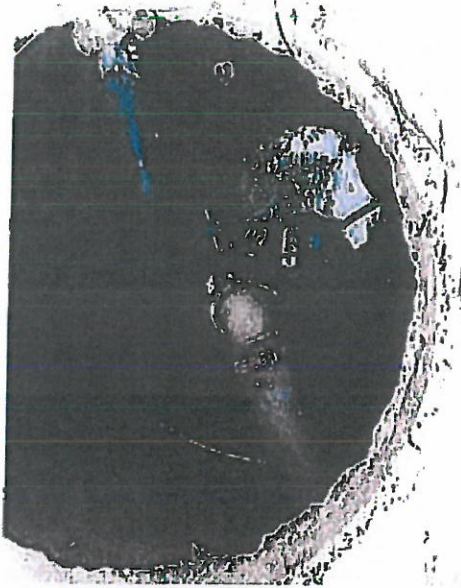
locate a camper pursuant to the application and site plan submitted to the Code Enforcement Officer on 8/15/2018.

**CONDITIONS:**

PROJECT MUST BE STARTED BY 8/21/2019 AND COMPLETED BY 2/21/2021.







Electric Lines to property



Cast Iron pipe from Camp 6+8 to Septic Tank

