

2017

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TOWN OF CHINA, MAINE

ORDINANCE FOR THE ACCEPTANCE OF STREETS AND WAYS

September 15, 2008 ~~JUNE 5, 1993~~

SECTION 1. DEFINITION

This Ordinance applies to the acceptance of new town roads, streets, ways, and/or the relocation or major alterations thereof. It does not preclude but neither does it contemplate or imply the acceptance of ways serving property occupied or used only on a seasonal basis.

Streets or ways dedicated, partially constructed, or used for public travel prior to the passage of this Ordinance shall comply with the requirements of this Ordinance before formal acceptance by the Town. Existing town roads are exempt.

SECTION 2. APPLICATIONS

Applicants for the acceptance of a new street or way must file a plan showing the following information:

- ~~(a)~~ a. The scale of the plan.
- ~~(b)~~ b. The direction of magnetic north.
- ~~(c)~~ c. The starting and ending points with relation to established roads, streets or ways.
- ~~(d)~~ d. The street lines, with relation to existing buildings and landmarks.
- ~~(e)~~ e. Dimensions, both lineal and angular, necessary for locating boundaries, and necessary for locating subdivisions, lots, easements, and building lines.

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~~(f)~~ f. The lots as laid out on said street, and showing the names
—of all owners of abutting property.

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~~(g)~~ g. All natural water ways and water courses in or in land
—contiguous to the said streets or ways.

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~~h. (h)~~ The centerline of the road shall be the centerline of the road right-of-way.

With the plan, applicants shall submit a written application for acceptance, giving the following:

~~(a)~~ a. The name of the owner or owners of the land containing the
—street or way to be accepted.

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~~(b)~~ b. The name or names of the developers.

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~~(c)~~ c. A statement of any legal encumbrances on the property.

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~~(d)~~ d. A statement giving the proposed starting and finishing dates of the street
construction.

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If the proposed street or way shall contain any grade of 5% or greater, the applicant shall also submit with the plan and written application, a profile drawing showing:

~~(a)~~ a. The scale of the profile, both horizontal and vertical.

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~~(b)~~ b. Proposed provision for ditching, culverts, bridges, and for
—storm drainage with respect to natural waterways or
—contours. All applications shall be made to and supporting
—data filed with the Selectmen of the Town of China, and
approval for acceptance must be obtained before the plans
—are filed with the Registry of Deeds.

~~c.(e)~~ Submittals or plans are to be consistent with all parts of this Ordinance.

SECTION 3. SPECIFICATIONS

Roads shall be located, constructed and maintained in such a manner that minimal erosion hazard results. Adequate provisions shall be made to prevent soil erosion and sedimentation of the surface waters. For any road to be accepted by the Town,

the following standards must be met. However, meeting these standards does not guarantee that the road will be accepted by the Town.

Dead-end roads should end with an approved cul-de-sac or turn-around. (See detailed drawings.)

Graded shoulders shall extend to each side of the paved section, except that no shoulder shall be required when concrete, stone, or asphalt curbing is used. A graded shoulder shall be a minimum of four (4) feet if a box section is incorporated.

Number of travel lanes _____
_____ 2 lanes
Width of paved travel lanes _____
_____ ~~10~~11 feet
Width of parking lanes/shoulders _____ 4 feet
Width of Right of Way _____ 50
feet
Maximum Ditching Slopes _____ 3:1 down
slope and back _____
_____ slope
Roadway Crown _____
_____ ¼ inch per foot (paved)
_____ The Crown of the road may be adjusted to take advantage of more
efficient drainage and for curves in the roadway.

Maximum Grade _____
_____ ~~10~~12 %
_____ At intersections of highways or town roads maximum 3%
Center line radius on curves; (min) _____ 150 ~~200~~ feet
Tangent between reverse curve; (min) _____ 150 ~~200~~ feet
Stabilization – Geotextiles: When ~~deemed necessary~~ MDOT T-
22-01
deemed necessary
Minimum Angles at Intersection _____ 75 degrees
Minimum Center Line Radius for Curves _____ 150 feet
Gravel Base*** _____
_____ 21 inches (Base & Sub- _____
_____ base as follows)

Aggregate Sub-base
 Required 18 inches
 compacted in
 6-inch lifts
 Aggregate Base Gravel
 3 inches
 Bituminous paving (travel lanes only) 32 inches or
 more 2
 inches (min.) binder
 (MDOT "B" mix or equivalent)
 and 1 inch
 (min.)
 wearing course (MDOT
 "C" or "D" mix or equivalent).

Driveway eCulverts: (MDOT Approved/Accepted)
 Driveway: 30 foot length (min.)
 15 inch diameter (min.)
 Roadway: 34 foot length (min.)
 15 inch diameter (min.)
 Cross-Culvert (diagonal) 36 foot length
 (min.)
 15 inch diameter (min.)
 20 length
 12 inch
 minimum

***Specifications for aggregate subbase: Aggregate subbase must conform to MDOT 703.06 (as amended), Type 'D' (or equivalent) Gravel , of hard durable particles free from vegetable matter, lumps or balls of clay and other deleterious substances. The gradation of that part that passes a 3 inch sieve shall meet the following requirements:

1. ¼ inch sieve: 25 to 70 percent passing by weight
2. No. 40 sieve: 0 to 30 percent passing by weight

3. No 200 sieve: 0 to 7.0 percent passing by weight

4. Type 'D' aggregate shall not contain particles of rock which will not pass the 6-inch square mesh sieve.

***Specifications for aggregate base: Aggregate base must conform to MDOT 703.06 (as amended), Type 'A' Crushed Gravel, of hard durable particles free from vegetable matter, lumps or balls of clay and other deleterious substances. The gradation of that part that passes a 3 inch sieve shall meet the following requirements:

1. -½ inch sieve: 45 to 70 percent passing by weight

2. -¾ inch sieve: 30 to 55 percent passing by weight

3. No. 40 sieve: 0 to 20 percent passing by weight

4. No. 200 sieve: 0 to 5 percent passing by weight

5. Type 'A' aggregate shall not contain particles of rock which will not pass the 3-inch square mesh sieve.

Leveling gravel may be used to do finished grading.

Ledge: Ledge shall be removed to a minimum depth of one foot, 12", below subgrade.

Improvements should be made to the same standards the Town would normally install if it were doing the work itself.

SECTION 4, Grades, Intersections, and Sight Distances:

a. Grades of all roads shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

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b. All changes in grades shall be connected by vertical curves providing for the minimum sight distances set forth below.

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c. Where new road intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below:

Posted Speed Limit	Sight Distance (Each Direction)
25 mph	250 feet
30 mph	300 feet
35 mph	350 feet
40 mph	400 feet
45 mph	450 feet
50 mph	500 feet
55 mph	550 feet

-Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

~~(d.)~~ Cross (four-cornered) road intersections shall be avoided in so far as possible, except as shown in the China Comprehensive Plan or at other important traffic intersections. A minimum distance of 200 feet shall be maintained between centerlines of side streets.

SECTION 54. SLOPE EASEMENTS

Whenever the ratio of slopes for ditches, shoulders, grading and other purposes required by this Ordinance cannot be adhered to within the required fifty foot road limits, and grading or excavation is necessary beyond this width, it shall be necessary for the developer or builder to secure good and sufficient slope

easements from abutting owners without cost or expense to the Town, and such rights properly indemnifying the Town shall be presented and recorded prior to any action for acceptance.

Side slopes shall be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.

Underground utilities shall be installed prior to road surface completion.

Erosion control procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

Following road construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire road right-of-way. If on-site disposal of stumps and debris is proposed, the disposal site shall be indicated on the plan and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

SECTION 65. DRIVEWAY ENTRANCES

Each abutting property owner or the developer, as the case may be, shall not obstruct the flow or drainage of any ditch existing on any road or street within the jurisdiction of the Town by the construction of a driveway or entrance to his property. To comply with this, all culverts that may be necessary shall be furnished by the owner or developer. On accepted streets the culvert furnished will be installed and maintained by the Town. Prior to acceptance of any street, such culverts shall be installed in accordance with this Ordinance by the property owner or developer, but will be maintained by the Town following acceptance of the street. Culvert sizes and materials shall be as specified in the specification section of this Ordinance. All new driveways on town roads require a permit issued by the Road Commissioner. Any exception requires permission by the Road Commissioner. Lengths shall be a minimum of thirty feet (30').

SECTION 76. SIDEWALKS

The ~~Road Commissioner~~Board of Selectmen shall have the authority to designate whether side-walks shall be required or not, and whether sidewalks shall be constructed on both sides of the street or way or only on one designated side. Such sidewalks as are required shall abut the boundaries of the RIGHT OF WAY— and shall conform to the cross-section drawing of construction details. Sidewalks should not be less than three (3') feet wide.

1. Bituminous Sidewalks:

- a. The gravel aggregate sub-base course shall not be less than 12 (12") inches thick.
- b. The crushed aggregate base course shall not be less than two (2") inches thick.
- c. The hot bituminous pavement surface course shall not be less than two (2") inches after compaction.

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2. Portland Cement Concrete Sidewalks:

- a. The sand base shall not be less than six (6") inches thick.
- b. The Portland Cement Concrete shall be reinforced with six-inch-square, number 10 wire mesh and shall not be less than four (4") inches thick.

3. Alternate Sidewalks: To be approved by Road Commissioner.

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SECTION 87. UTILITIES

Longitudinal runs of water or sewer mains shall be laid outside of the twenty-eight~~four~~ foot roadbed and clear of any present or designated sidewalks. Utility poles shall be so placed so that any present or designated sidewalks may be contained within the boundaries of the street or way without obstruction by poles or appurtenances.

SECTION 98. INSPECTION DURING CONSTRUCTION

Whenever an application for the acceptance of a street or road is received, the Road Commissioner of the Town shall be fully informed and given all data as to layout and location. It shall be the duty of the Road Commissioner to make sufficient inspections during construction to have knowledge of compliance or non-compliance with this Ordinance and to report fully on the same upon request of the Board of Selectmen or the Planning Board.

SECTION 109. CONCURRENCE BY OTHER BOARDS

Before a road is considered for recommendation for acceptance, the applicant must submit to the Board of Selectmen or Road Commissioner, at the expense of the applicant, a written certification signed by a professional engineer registered in the State of Maine, certifying that the road(s), as built, meets or exceeds the design and construction requirements of this Ordinance.

Whenever an application for laying out and accepting any street or way is presented to the Board of Selectmen, it may refer the same to the Planning Board or Road Committee, which shall proceed to examine the application and the site. No street or way shall be presented to the Town for acceptance until the Planning Board or Road ~~Commissioner~~ Committee have made a careful investigation and shall have reported to the Board of Selectmen that the provisions of this Ordinance have been complied with. Following such report by the Planning Board or Road ~~Commissioner~~ Committee, the Board of Selectmen may give clearance for the construction of said road or way within the limitations of this Ordinance, and without prejudice of rights as to final recommendation for acceptance, or as to acceptance by the Town. The Board of Selectmen may require the assessment of additional fees to cover the costs of construction inspection.

SECTION 1140. BOND

No street or way shall be accepted unless and until the Board of Selectmen have been furnished with a bond satisfactory to them, providing that the developer, or persons petitioning for the street or way, will be responsible for a period of two ~~(2)~~20 years from the date of acceptance to repair any defect or condition of the street or way that is unsatisfactory to the Board of Selectmen which arises out of the failure of the developer or said petitioners to prepare said street or way to the specification provided for in this Ordinance. Said bond shall be in the minimum amount of \$~~502~~.00 per lineal foot of said street or way with actual amount to be determined and set by the Board of Selectmen. This provision may be waived at the discretion of the Board of Selectmen.

SECTION 1244. RECOMMENDATION FOR ACCEPTANCE

At such time as the developer has complied with the above specifications to the satisfaction of both the Board of Selectmen and either the Planning Board or the Road ~~Commissioner~~ Committee, the Selectmen may give such developer a written statement that he has complied with the specifications of the Ordinance, and that such Board will recommend the acceptance of such street or way at the next

regular Town Meeting, or at a special Town Meeting called for this purpose within a reasonable and feasible time.

| **SECTION ~~1312~~. PREVIOUS ACTIONS**

| The above Ordinance rescinds any previous Ordinance or actions, or any part thereof, previously approved or accepted by the Town of China, where it conflicts in any way with the above sections of this Ordinance.

TOWN OF CHINA BOARD OF ASSESSMENT REVIEW ORDINANCE

Section 1. Establishment

Pursuant to 30-A M.R.S.A. 2526(6), a Board of Assessment Review (hereinafter the “Board”) is hereby established for the Town of China, Maine.

Section 2. Composition

The Board shall consist of three (3) members and two alternates who shall be appointed by the Select Board and who shall be registered voters of the Town. If a member ceases to be a registered voter of the Town, that member’s office immediately becomes vacant. Members of the Select Board or the Assessor may not be a member of the Board. At least one Board member shall have a background in real estate related fields such as assessing, appraisal, brokerage, insurance or law. Board members shall serve for terms of three (3) years or until their successors are appointed, except that for purposes of the initial Board, one member shall be appointed for a term of one (1) year, one member shall be appointed for a term of two (2) years, and one member shall be appointed for a term of three (3) and one of the alternates shall be appointed for the term of one (1) year and one alternate shall be appointed for a term of two (2) years. Vacancies shall be filled by appointment by the Select Board for the unexpired term.

Section 3 Officers: meetings; quorums; procedures.

The Board shall annually elect from its membership a Chairperson and a Secretary. The Chairperson shall call meetings as necessary, shall preside at all meetings, and shall designate alternate officers to serve in place of members who are absent or disqualified. The Secretary shall maintain a record of all proceedings, including all correspondence of the Board. All meetings and records shall be subject to the Maine Freedom of Access Act, 1 M.R.S.A. 401-410, except as otherwise authorized by law. The Board shall provide public notice of its meetings by publications in a newspaper of general circulation in the Town of China at least seven days prior to the date of the meeting. A quorum necessary to conduct business shall consist of at least two (2) members. The Board shall act by majority vote of those members present and voting. A tie vote on an appeal shall constitute a denial of the appeal. The Board’s procedure shall be governed by 30-A M.R.S.A. 2691 (3).

Section 4. Powers and Duties.

The Board shall hear and decide all appeals properly taken from the refusal of the Assessor(s) to make such property tax abatements as are requested. The Board may take such evidence and testimony as it deems necessary and may grant such abatements as it thinks proper. If the Board fails to give written notice of its decision within 60 days of the date of the appeal is filed, unless the taxpayer agrees in writing to further delay, the appeal shall be deemed denied. The Board's decisions may be appealed in accordance with 36 M.R.S.A. 843.

Town of China Budget Committee Ordinance

Section 1. Establishment.

Pursuant to 30-A M.R.S.A. Section 3001, a Budget Committee is hereby established for the Town of China, Maine. This Ordinance shall repeal and replace any previous actions taken by any previous town meeting vote including but not limited to the most recent known vote taken in 1947 and those immediately preceding and dating back to 1932.

Section 2. Composition; Election (Appointment); Qualifications; Terms; Vacancies.

The Committee shall consist of 7 members who shall be elected by the town at-large at the Annual Town Meeting and who shall be registered voters of the Town. Candidates shall take out and properly process nomination papers and be elected by referendum election on a secret ballot. The election and constitution of the Budget Committee shall be as follows: a Chairperson shall be elected from the town at-large; a Secretary shall be elected from the town at-large; one additional member shall be elected from the town at-large; and one member shall be elected from each of the four areas or districts as indicated on the attached Budget Committee District Map. No person may be elected to be or serve as a Member representing a particular area unless he or she is a resident of that area.

The Budget Committee District Map was signed by the Select Board and attested to by the Town Clerk on June 13, 2006, and being the date of adoption.

Members serving on the Budget Committee as of the date of enactment of this Ordinance shall be entitled to serve the remainder of their terms. For transition purposes, representatives from areas 1 and 3, and the Chairperson elected at-large shall be elected at the annual election in 2006 to serve terms of one year, and shall thereafter be elected in odd-numbered years to serve terms of two years. Representatives from areas 2 and 4, and the Secretary and other Member elected at-large shall be elected at the annual election in 2006 to serve terms of two years, and shall thereafter be elected in even-numbered years to serve terms of two years.

The elected member from a given area or candidates at-large shall be the candidate receiving the largest number of votes cast. Voters shall have the right to cast ballots for one candidate from each of the areas and for the respective candidates-at-large running in any given year.

When there is a permanent vacancy due to the resignation of a Member, the Select Board shall appoint a person to complete the unexpired term. Such appointment shall be done within 45 days of the date of resignation or dismissal and the person shall be chosen from the same election area, if applicable. If there are two or more qualified candidates, the Select Board may at their discretion hold a special election to fill the vacancy.

Section 3. Officers; Meetings; Quorum; Procedure.

The Chairman shall call meetings as necessary or when so requested by a majority of members or the municipal officers. A quorum necessary to conduct business shall consist of at least a majority of members. The Chairman shall preside at all meetings. The Secretary shall maintain a record of all proceedings including all correspondence of the Committee. All meetings and records shall be subject to the Maine Freedom of Access Act, 1 M.R.S.A. Sections 401-410. The Committee may adopt rules of procedure not inconsistent with this ordinance.

Section 4. Responsibilities, Powers and Duties; Authority; Recommendations; Official Cooperation.

The Committee shall have the following responsibilities, powers and duties:

1. To review and make recommendations on the annual municipal and school operating budgets as proposed by the municipal officers and School Committee (Superintendent);
2. To review and make recommendations on annual municipal and school capital expenditures as proposed by the municipal officers and School Committee (Superintendent);
3. To review and make recommendations on supplemental appropriations and expenditures and other budgetary action whenever proposed by the municipal officers and School Committee (Superintendent);
4. To make such other recommendations on fiscal matters as it may from time to time deem advisable.

The Committee's authority shall be advisory only. Any recommendation on a matter requiring town meeting action shall be printed with the article in the warrant and on the ballot, if any, along with such other recommendations as may be included by the municipal officers or required by law. The municipal officers and town manager shall cooperate with and provide the Committee with such information as may be reasonably necessary and available to enable it to carry out its functions under this ordinance.

Town of China Cemetery Administration and Maintenance Ordinance

Section 1. Introduction

This ordinance is for the purpose of regulating the operation and use of public cemeteries in the Town of China and shall be known as the “Town of China, Cemetery Administration and Maintenance Ordinance.” This ordinance shall become effective on March 25, 2017.

Section 2. Application

The provisions of this ordinance shall apply to all cemeteries under the town’s jurisdiction. The Select Board may extend its application to other public burial grounds or any additions to existing cemeteries as it may deem appropriate.

Section 3. Supervision

Said cemeteries shall be used exclusively for the burial of the dead and shall be under the supervision of the Town Manager and a committee so called the Cemetery Committee, consisting of at least three community members, whose duties it shall be to supervise the expenditures of sums of money as may from time to time be appropriated or received by the Town for the care, management and improvement of said cemeteries, and who shall have the general supervision of all matters pertaining to the management of same. Members shall be appointed by the select board for a term of one year.

Section 4. Appointment of Superintendent

The Superintendent shall be appointed by the Town Manager with the approval of the Select Board. He or she shall hold office until the removal by the Town Manager. His or her duty shall be to oversee the digging of all graves, the burial of all bodies in said cemeteries, or from place to place in said cemeteries. He shall be under the direction of the Town manager and the Cemetery Committee.

Section 5. Cemetery Plan

All extensions of said cemeteries shall be surveyed and laid out in lots, driveways, and path, to conform as nearly as may be to the general plans of the said cemeteries as they now exist, and no part of said cemetery or cemeteries shall be used for burial purpose until such part shall have been surveyed and an accurate plan of the same made. The lots shall be numbered consecutively, and the subdivisions of the lots shall be known as a single lot. The plan of said cemeteries shall be marked so as to designate the person or family to whom each is assigned, and the location of each grave in each lot shall be marked and the name of each person interred written thereon.

Said plans shall be kept on file at the Town Clerk's office and tracing of said plans shall be available for the use of the Superintendent. A complete index of said plans shall be made, showing the holder of each person interred. The Superintendent of Cemeteries shall mark on the plans in the Town Clerk's office the lots assigned during the year and the location of each interment made as recorded by the Superintendent and enter the same in the index to said plans. All record of said cemeteries now in existence shall be filed with the Town Clerk for safe keeping.

Section 6. Fees and Payments

All schedules of fees, charges and deposits referred to in this ordinance may be adopted and changed by the Select Board. All fees, charges and other deposits for appropriate disposition shall be paid to the Town Treasurer, who will furnish an official receipt to the persons making such payments.

Section 7. Lot Sale

Persons may purchase lots in any public cemetery in China. Lot fees to be charged shall be fixed by the Select Board and may be changed from time to time as the Select Board may determine. The sale of lots shall be subject to such rules and regulations as may be recommended by the Cemetery Committee and adopted by the Select Board. Accurate records of all such sales shall be maintained by the Superintendent and permanently filed in the office of the Town Clerk.

Section 8. Use of Lots

The deeded owners and heirs of such cemetery lots are subject to all rules and regulations that may, from time to time, be adopted for the management and use of the cemetery. The payment of a fee for a cemetery lot shall result in a deed being drawn up by the town and the owner of the lot must record the deed at the Kennebec County Registry of Deeds. The purchaser, also known as the "recorded owner," has a right of use of the lot for burial purposes, subject to such ordinances, rules and regulations as the Town may have previously adopted or approved and promulgated now and in the future.

Section 9. Grave Requirements

All graves, including those for cremation remains, shall be dug and properly back-filled by or under the supervision of the Superintendent. No other person is permitted to perform such tasks except under the supervision of the Superintendent or his authorized representative. All burials, except for cremation remains, shall be in a casket and a cement vault. A maximum of one casket shall be allowed in each plot. From this day forward up to three cremains may be interred in each plot. Each burial including cremains must be approved and recorded at the Town Office prior to burial.

Section 10. Reporting and Records

The Superintendent shall have the responsibility of accurately recording all interments and shall further report all such data to the Town Clerk who shall maintain the permanent records relating to cemeteries and all interments therein in the Clerk's Office. The Town Clerk shall also maintain and preserve all permanent records pertaining thereto.

Section 11. Perpetual Care

The income derived from the sale of a lot or lots will be expended from time to time for the care and improvement of said lot forever. Said sums as previously paid or received hereafter shall be known as the Cemetery Trust Fund.

Section 12. Definition of "Care"

"Care" shall include the cutting of grass upon the lot at reasonable intervals, the raking and cleaning of the lots and such works as may be necessary to keep the grave in a neat condition. Any holder of a lot shall follow the guidelines of the respective bylaws set forth in their deed. The Town does not accept legal responsibility for the care, restoration and maintenance of monuments, gravestones and markers.

Section 13. Cemetery Access

Access to the public cemeteries shall be limited to such reasonable hours as may be set from time to time by rules and regulations and where gates are provided, they may be locked to bar public access at other times. The use of cemetery streets and roadways by vehicles shall be similarly regulated and may be completely prohibited in all or part of any public cemetery where conditions of weather and ground may require such action for reasonable period of time. Such emergency action may be taken by the Superintendent with the approval of the Town Manager.

Section 14. Prohibited Conduct

The following specified behavior and conduct by any person is prohibited at all times within any public cemetery of the Town of China:

- a. No person shall consume any intoxicating liquor while in such place.
- b. Disorderly conduct, including but not limited to, the creation of disturbances, the making of loud noises, the use of obscene or profane language and the interference with or annoyance of other persons who are present in said cemetery for funeral, committal or memorial services or for the purpose of visiting grave sites is forbidden.

- c. No person shall hunt wild animals or birds within or from public cemeteries and no person shall discharge firearms or air rifles or pistols while within such cemeteries.
- d. Any person driving in any town cemetery shall be responsible for any damage done by his/her vehicle.
- e. During closed hours, persons have no lawful purpose to remain there and shall leave immediately upon the request by a police officer or other duly authorized law enforcement officer.
- f. No person shall willfully damage, injure, deface or carry away any fence, gate, ornamental tree, shrub, marker, flag, flag holder, urn, vase or other improvement, also including improved and built-up grave sites, and the materials used, or to be used, for such improvement.
- g. No person shall allow a domestic animal to roam a public cemetery unless restrained by a leash.
- h. No person shall fail to immediately remove and lawfully dispose of any feces left in a cemetery by a dog under his/her control unless a dog accompanying any handicapped person who, by reason of his/her handicap, is physically unable to comply with the requirements of this section.

Section 15. Repurchase of unused lots

The Select Board is authorized to repurchase any unused lots from owners or descendent as deemed in the best interest of the Town of China. Any expenses associated would be the responsibility of the seller. Proof of ownership must be demonstrated by any and all heirs before a sale will be final. Resale of lots is not allowed. A person may only sell lots back to the town if they no longer desire the lot.

Sale of lots by the lot owner to any other person or entity is prohibited. However, the Town may purchase unused lots from an owner who no longer requires the space, subject to the approval of the Cemetery Committee. The price paid by the Town will be the original price paid to the Town for the lot(s) but not more than seventy-five percent of the current selling price of lots in the cemetery.

Section 16. Adoption and Amendments

This ordinance shall become effective upon passage at town meeting and may be amended in accordance with the general provisions of the Town governing ordinances. The invalidity of any portion of the Ordinance shall not invalidate any other part. The enactment of this ordinance

replaces the previous Town of China Cemetery Administration and Maintenance Ordinance in its entirety.

CHAPTER 5. FLOODPLAIN MANAGEMENT ORDINANCE

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

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,
 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:

- 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 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

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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.

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
 - 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:

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- 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:

- 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:

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

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 7. KENNEL ORDINANCE

SECTION 1. AUTHORITY

This section of the Ordinance is adopted pursuant to 7 M.R.S.A., Section 3950 and 30A M.S.R.A., Section 3001.

SECTION 2. PROHIBITED PRACTICE

The owner or operator of a kennel, boarding kennel or breeding kennel, as defined in 7 M.R.S.A., Section 3907 shall not permit the dogs therein to disturb the peace of any person in the vicinity of such kennel by barking, howling, baying, whining, yelping or other loud and unreasonably long or frequent periods.

SECTION 3. ENFORCEMENT PROCEDURE

Any owner or operator of a kennel who, after having been ordered by the China Animal Control Officer, or other law enforcement officer, fails or refuses to cause the noise prohibited under Section 2 above to cease, commits a civil violation for which forfeiture of not less than \$100 nor more than \$300 may be adjudged for each offense, together with the costs incurred in enforcing this section of the Ordinance, including reasonable attorneys' fees. All forfeitures established by this section of the Ordinance shall be recovered on complaint to the use of the Town of China pursuant to 30A M.R.S.A., Section 3001(4).

SECTION 4. MULTIPLE VIOLATIONS

In addition to the forfeiture prescribed by Section 3 above, in the case of three (3) or more violations of this section of the Ordinance within a twelve (12) month period, the owner or operator of a kennel may be ordered to remove the kennel by the China Board of Selectmen.

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: Fifteen (15) per cent in the Resource Protection, Stream Protection, and Shoreland Districts, and twenty (20) per cent in the Rural District; road set-back (principal structures, 25 feet; accessory structures, 20 feet); side set-back (10 feet), rear set-back (15 feet), shoreline set-back, in the Resource Protection and Shoreland Districts, (100 feet); Shoreline setback in the Stream Protection District, (75 feet); height limits (35 feet).

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. "Enlargement" or "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, and in the Resource Protection, Stream Protection, and Shoreland Districts, to increase in volume or floor area pursuant to the State Shoreland Zoning Law, 38 MRSA § 439-A(4).
- b. excludes the addition, installation or construction of:
 - i. foundation posts, provided the structure will meet the height limit,
 - ii. frost walls, with crawl space not exceeding three feet in internal height, provided the structure will meet the height limit,
 - 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 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), or that a new system can be installed in compliance with the law and said Rules. 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 the purposes of this Ordinance. 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. Abandonment of non-conforming structures

A non-conforming structure shall be deemed to have been abandoned and it may not be used thereafter unless the structure is made to conform with the requirements applicable to structures set forth in this Ordinance:

- a. If no lawful use is made of a non-conforming structure for a period of two consecutive years and the structure has had its utilities and fixtures (i.e. heating, electrical and water source) removed for that period, provided that the Planning Board may grant an extension of this time limit for up to three additional years if the applicant demonstrates convincingly that there was no intent to discontinue the use of the structure, or
- b. If (1) the non-conforming structure is damaged in excess of 50% of its value and (2) it is not repaired or rebuilt within one year after the date of such damage pursuant to Chapter 2, Section 2.C.IV of this Ordinance. The one year period may be extended by the Planning Board for an additional year if the Planning Board determines on evidence presented by the owner that the owner has failed due to circumstances beyond his control.

VII. Non-conforming structures

- c. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.

- d. After January 1, 1989 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 30% or more, during the lifetime of the structure. 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.
- i. A non-conforming structure in the Rural, Stream Protection, and Shoreland District may be enlarged or expanded if:
 - 1. the expansion or enlargement is within the setback and height limits,
 - 2. the structure as expanded and enlarged is within the lot coverage requirement, and
 - 3. a permit is obtained from the Code Enforcement Officer (CEO), or
- ii. A non-conforming structure in the Rural, Stream Protection, and Shoreland District may be enlarged or expanded if:
 - 1. a structure in the Stream Protection or Shoreland Districts can be expanded or enlarged pursuant to 2.C.VI.a above; and
 - 2. either the volume or floor area is increased by less than 30% of the structure in existence on the effective date of this Ordinance, then the expansion or enlargement may be made if:
 - a.) the distance between the normal high water line and any part of the expansion or enlargement 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, and
 - b.) a permit is obtained from the CEO.
- iii. Any expansion or enlargement which increases the volume or floor area of the structure by 30% or more and which is wholly or partly within the required shoreline setbacks of the normal high water line is prohibited [by the State Shoreland Zoning Law, 38 MRSA § 439-A(4)].
- iv. Any structure and new foundation shall be placed such that the setback requirement is met to the greatest practical extent as determined by the CEO, basing the decision on the criteria specified in Section 2.C.IV above.

- v. 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, based the decision on the criteria specified in Section 2.C.IV, above. If:
 - 1. The completed foundation 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. The foundation shall 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); the foundation shall not be considered to be an expansion of the structure.

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.
 - 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. A non-conforming use of a lot (land) or structure shall be deemed to be discontinued by the removal of all principal structures from the lot (land) for a period of at least one year pursuant to Section 2.C.VI of this Chapter, or by the abandonment (non-use) of the lot (land) by not utilizing said lot (land) or structure thereon for its intended use, or by discontinuing the occupancy of a lot (land) or structure pursuant to Section 2.C.VI.a of this Chapter, and may not be resumed. Thereafter, the use of a lot (land) or structure shall conform to this Ordinance. Existing principal structures once occupied for

residential use but left unoccupied for at least two (2) years may be reoccupied if the applicant demonstrates convincingly that there was no intent to discontinue the residential use of the structure.

VI. 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.

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

VIII. 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.

IX. 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;
- 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

		LAND USES DISTRICTS			
		RPD	SD	RD	SPD
1.	Non-intensive recreational uses not	yes	yes	yes	yes

As amended March 25, 2017

	requiring structures; such as hunting, fishing, hiking.				
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 (0)	PB	CEO	NI	CEO
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 (Q)	CEO	CEO	yes	CEO
10.	Mineral extraction; sand and gravel extraction. *Section 5 (Q)	no	PB	CEO	no
11.	Surveying and resource analysis.	yes	yes	yes	yes
12.	Emergency operations, as defined.	yes	yes	yes	yes
LAND USES DISTRICTS					
		RPD	SD	RD	SPD
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

As amended March 25, 2017

	Agricultural structures	no	PB	CEO	no
	Conversion (as defined)	no	CEO/LPI	CEO/LPI	no
	*Section 2 (E)(V)				
	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, steeples, 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 (R)	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 (M)	no	no	PB	no

As amended March 25, 2017

19b.	Individual, private campsites	CEO	CEO	CEO	CEO
19c.	Road and driveway construction. *Section 5 (N)	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 (K)				
	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
		LAND USES DISTRICTS			
		RPD	SD	RD	SPD
	Other essential services	PB	PB	yes	PB
23.	New private sewage disposal systems. *Section 5 (C)	no	LPI	LPI	no
24.	Commercial hazardous or solid waste disposal facilities. *Section 5 (D)	no	no	CU	no
25.	Signs. *Section 5 (J)				
	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

As amended March 25, 2017

- 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. 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;
 - 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 of at least 1,000 square feet in size within which there shall have been dug at least

five (5) observation holes, one in each corner and one near the center. The observation hole in the center shall be a test pit with a minimum opening of nine (9) square feet.

- 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 plumbing permit containing a request for a reduction of plumbing code standards through the Department of Human Services Division of Environmental Health's new system variance request procedure shall not be approved by the Town's Local Plumbing Inspector or the Municipal Officers. Also, a holding tank is not allowed for a first-time residential use in the shoreland zone.
- 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, lagooning, 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 Control Handbook for Construction, Best Management Practices, as prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection. Said practices should include but not be limited to (a) staked hay bales, (b) velocity reduction dams (hay bales and siltation fences) 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 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. Hazard 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.
- b. 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.
- c. 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.
- d. 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.
- e. 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 ($\frac{1}{3}$) 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

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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

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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.
 - 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 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.

As amended March 25, 2017

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. Commercial Campgrounds and/or Individual Private Campsites

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures. 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. In addition, Campgrounds and individual, private campsites shall conform to the following:

- I. 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. These individual private camp sites shall contain a minimum of 1,500 square feet of suitable land, not including roads.
- II. 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.
- III. 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.
- IV. 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.
- V. 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.
- VI. 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.
- VII. 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.

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.

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:

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 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.
 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)(III)(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 $3\frac{1}{2}$ 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.

As amended March 25, 2017

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:

As amended March 25, 2017

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.

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.
- 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:

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.

TOWN OF CHINA PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

Administration by the Efficiency Maine Trust

PREAMBLE

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

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

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

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

§ XX-1 Purpose

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

§ XX-2 Enabling Legislation

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

ARTICLE II - TITLE AND DEFINITIONS

§ XX-3 Title

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

§ XX-4 Definitions

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

- 1. Energy saving improvement.** “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:
 - A. Will result in increased energy efficiency and substantially reduced energy use and:
 - (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or
 - (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
 - B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.
- 2. Municipality.** “Municipality” shall mean the Town of China.
- 3. PACE agreement.** “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.
- 4. PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.
- 5. PACE district.** “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

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

ARTICLE III - PACE PROGRAM

- 1. Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.
- 2. Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

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

ARTICLE VI – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

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

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

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of

home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

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

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

2. Liability of Municipal Officials; Liability of Municipality

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

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

Parking Ordinance

- Authority:** This parking ordinance is adopted pursuant to 30-A M.R.S.A. 3009.
- Purpose:** This ordinance is designed to protect the public health and welfare by regulating the parking of or standing of motor vehicles on certain public ways. Unrestricted parking on public ways creates traffic hazards and is dangerous to pedestrians and motorists, and it is the purpose of this ordinance to reduce this danger.
- Definitions:** "Public Way" - means any town way or public easement as defined in 23 M.R.S.A. 3021 and portion of any State or State-aid highway located within the town. This term includes ways commonly designated as streets, lanes, roads, and avenues and includes paved or unpaved shoulders of such ways.
- "Motor Vehicle" – is any vehicle defined in 29 M.R.S.A. 1.
- Any other term used in this ordinance shall have its common, ordinary meaning unless otherwise indicated.
- Regulated Areas:** When signs are erected giving notice thereof, no person shall park or let stand any motor vehicle at any time on the following public way or specified portions thereof: on the southerly side of Route 3 beginning at the intersection of Route #3 and the Smith Road running easterly approximately to the intersection of Route #3 and Rockwood Drive, and on the northerly side of Route 3 beginning at the intersection of Route #3 and the Vassalboro Road running westerly approximately 260' and running easterly from the intersection of Route #3 and the Vassalboro Road 190' and on the westerly side of the Vassalboro Road beginning at the intersection of Route #3 and the Vassalboro Road running northerly for approximately 620' and also on the easterly side of the Vassalboro Road beginning at the intersection of the Vassalboro Road and Route #3 running northerly on the Vassalboro Road for a distance of 630'.
- Exceptions:** This ordinance does not apply to motor vehicles parked in prohibited areas for the following reasons: Mechanical problems or breakdown; Emergency situations;

Maintenance, construction, repair or installation of utilities in the public way by any State or municipal agency or utility company.

- Penalties: Any person found in violation of this ordinance by a Court of competent jurisdiction shall be subject to a fine of not more than \$100.00 nor less than \$25.00; all fines accrue to the municipality. Persons charged with violating this ordinance may waive court action by payment of a fee of \$15 within 7 days after receiving notice of the violation. Any such waiver and payment of fee shall be processed through the Town Clerk.
- Enforcement: This ordinance shall be enforced by the Municipal Officers or their duly appointed designee. Violations of this ordinance shall be traffic infractions and shall be prosecuted, if necessary, in the appropriate District Court.
- Severability: In the event that any portion of this ordinance is found by a Court to be invalid, the remaining provisions shall continue in full force and effect.
- Effective Date: This ordinance shall become effective when adopted by a majority of the Municipal Officers.

Given under our hands this 5th day of November, AD 2012

Peter G. Foote

Steven R. Hughes

Irene L. Belanger

Paul E. MacDonald

Joann C. Austin

TOWN OF CHINA
REVISED
PLANNING BOARD ORDINANCE

Passed: 9/19/77
Revised: 3/1/85
Revised: 11/6/90
Revised: 11/7/2000
Revised: 4/26/2001
Revised: 06/10/2008

SECTION 1.0 INTRODUCTION

1.1 Authority

This Ordinance is adopted per Article VIII-A of the Constitution of the State of Maine (Municipal Home Rule).

1.2 Severability

If any section, clause, provision, or portion of this Ordinance is determined unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance is not affected thereby.

1.3 Repeal

All other ordinances or parts of ordinances of the Town of China inconsistent or conflicting with this Ordinance, to the extent of the inconsistency or conflict only, are hereby repealed.

SECTION 2.0 ELECTION OF THE PLANNING BOARD

2.1 General

A. Election to the Board is made by registered voters (hereinafter known as the legislative body) at the annual Town Meeting per M.R.S.A. Title 30-A, Section 2528 (nomination papers and printed secret ballot). The Board shall consist of 5 members, 1 from each of 4 areas designated on the Planning Board Election Map, and the 5th member to be a candidate-at-large. Created in November of 2000, an alternate-at-large member would be allowed to participate at planning board meetings but would be non-voting unless qualified to vote under the Planning Board Ordinance, Section 3.1 D. The Chairman will be elected by a majority vote of the Planning Board members at the first meeting following the election. The Chairman cannot be the alternate-at-large member.

- B. The Planning Board Election Map was signed by the Board of Selectmen attested to by the Town Clerk on September 19, 1977 and being the date of adoption.
- C. The term of office of each member is 2 years with representative from areas 1 and 3 and alternate-at-large elected on odd numbered years and representatives of areas 2 and 4 and at-large elected on even numbered years. The elected member from a given area or candidate-at-large shall be that candidate receiving the largest number of votes cast. Voters have the right to cast ballots for one candidate from each of the areas and for the candidate-at-large running on any given year.
- D. Compensation of each member shall be \$25.00 per meeting with a maximum of \$700.00 per year.
- E. When there is a permanent vacancy due to the resignation or a dismissal, the Board of Selectmen shall appoint a person to complete the unexpired term. Such selection shall be done within 45 days and the person shall be chosen from the same election area. If there are two or more qualified candidates, the Board of Selectmen may at their discretion hold a special election to fill the vacancy.
- F. Removal for the causes listed below may be initiated by the people in the form of a petition for a recall election to be held within 30 of submission to the Town Clerk. Such a petition must be signed by a number of voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election, but in no case less than 10. Causes for removal are:
 - 1. Missing 3 consecutive regular monthly meetings.
 - 2. Conviction of a crime greater than a misdemeanor or infraction during the member's term of office.
 - 3. Conduct detrimental to the welfare of the people.
 - 4. Conduct involving conflict of interest.
- G. Planning Board members shall not hold any other elected or appointed municipal office. Spouses of any municipal officer are excluded from serving on the Planning Board.

SECTION 3.0 ORGANIZATION

3.1 General

- A. The Chairman shall be elected by a majority vote of the Planning Board members at the first meeting following the elections.
- B. The Town of China through the Board of Selectmen, shall provide a secretary for each regular meeting to take notes and other such as secretarial duties as needed. The Planning Board shall create such other offices as it may deem necessary to perform within the authority of this ordinance.
- C. Any question regarding whether or not a member shall be disqualified from voting on a particular matter because of a conflict of interest shall be decided by a majority vote of the members present except the member whose vote is in question.
- D. The voting quorum as used in this Ordinance shall be 3 of 5 members. The Board shall transact its business by parliamentary procedure in accordance with Roberts Rules of Order. A majority of those present shall be considered a voting majority. In the absence of one of the regular voting members, the alternate-at-large member shall be, for that meeting, appointed to voting capacity by the Chairman.
- E. At least 1 regular meeting of the Board shall be held each month and called for by the Chairman. All meetings shall be held in a public building and all records shall be maintained at the Town Office. Executive sessions shall be held in strict accordance with State Law.
- F. All records of its resolutions, transactions, correspondence, findings, determinations, consultations, conferences, and recordings shall be deemed public and may be inspected as provided for Title 1 Section 402 M.R.S.A.

SECTION 4.0 RESPONSIBILITIES

4.1 General

The Planning Board shall prepare ordinances and amendments thereto for submission to and adoption by the legislative body.

4.2 The Board shall submit an activity report for inclusion in the annual Town Report.

4.3 Appropriations

Goods and services may be obtained that are necessary to its function within the limit of appropriations made for this purpose.

- 4.4 Comprehensive Plan
The Board shall prepare the Comprehensive Plan for submission to and adoption by the legislative body.
- 4.5 Other Duties
The Board reviews and acts upon applications passed on to it by the Code Enforcement Officer, Board of Selectmen, or other such Town officials necessary to determine compliance with the Town of China Land Use, Subdivision, Streets and Ways, Mobile Homes and Mobile Home Parks, and Multi-Family Ordinances.
- 4.6 Solicitation of Information from Legislative Body
By way of public hearings the people are included in the formulation of new considerations prior to submission for adoption.

SECTION 5.0 CHANGES AND AMENDMENTS

Amendments initiate from the Planning Board, Board of Selectmen, or by the people in the form of a petition. Such a petition must be signed by a number of voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election. Proposed amendments are included as articles in the warrant for a regular or special Town Meeting or referendum ballot and are voted upon by the people.

If passed, these amendments become a part of this ordinance. Amendments may be in the form of additions to, deletions from or changes in this Ordinance.

**ORDINANCE PROHIBITING RETAIL MARIJUANA ESTABLISHMENTS
AND RETAIL MARIJUANA SOCIAL CLUBS IN THE TOWN OF CHINA**

Section 1. Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

Section 2. Definitions.

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442.

Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. § 2442.

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

Ordinance Prohibiting Obscenity

SECTION 1. FINDINGS

Unlimited commercial exploitation of nudity can induce individuals to engage in prostitution, sexual assaults, breaches of the peace and other criminal activity.

Displays of nudity in commercial establishments tend to create, and have created in other towns and cities, a tawdry atmosphere which adversely affects the quality of the lives of the residents of said towns and cities. Such displays are highly detrimental to the public health, safety and welfare, lead to the debasement of both women and men and tend to promote violence, sexual harassment, public intoxication, the spread of sexually transmitted diseases, and other serious criminal activity and deleterious effects.

The above is especially so in establishments that have a license to sell liquor and other alcoholic beverages.

The promotion and/or wholesale promotion of obscene material and/or obscene devices can also be a blighting influence on the surrounding neighborhood, tending to create a tawdry atmosphere which adversely affects the quality of the lives of the residents of said towns and cities. Such promotion is highly detrimental to the public health, safety and welfare, leads to the debasement of both women and men and tends to promote violence, sexual harassment, the spread of sexually transmitted diseases, and other serious criminal activity and deleterious effects.

SECTION 2. PURPOSE

The provisions of this ordinance are directed at the negative secondary effects of nudity and obscenity as set forth above.

SECTION 3. DEFINITIONS

- A. *Expose*: cause to be unclothed, uncostumed or not covered by a fully opaque material.
- B. *Opaque*: completely concealed by a covering made of cloth or textile material, not including, latex body paint or similar materials applied as a liquid.
- C. *Prurient interest in sex*: a shameful or morbid interest in sex.
- D. *Commercial Enterprise*: any natural person, business, corporation, association or other entity engaged in an activity for pecuniary gain.

- E. *Material*: anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three-dimensional obscene device.
- F. *Obscene*: material or a performance that:
- (1) The average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;
 - (2) Depicts or describes:
 - a. Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or
 - b. Patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and
 - (3) Taken as a whole, lacks serious literary, artistic, political or scientific value.
- G. *Obscene device*: a device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.
- H. *Patently offensive*: so offensive on its face as to be intolerable to the average person, applying contemporary community standards.
- I. *Performance*: a play, motion picture, dance, or other exhibition performed before an audience.
- J. *Promote*: to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.
- K. *Wholesale promote*: to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

SECTION 4. PROHIBITIONS

- A. It shall be unlawful for any person in a commercial enterprise to engage in, and for any commercial enterprise to promote, encourage, allow or hire any person to engage in, the following activities:

1. expose his or her genitals, pubic hair, buttocks, perineum or anus, or to expose the areola of the female breast;
 2. engage in sexual intercourse;
 3. fondle the genitals of himself, herself or the genitals of another person; or
 4. engage in any act of public indecency, as defined in 17-A M.R.S.A. §854 as amended from time to time.
- B. The prohibitions contained in Section IV(A) above do not apply to theatrical, movie or similar establishments which are primarily devoted to theatrical performances or the presentation of movies, except as set forth in Section IV(C) and (D) below.
- C. It shall be unlawful for any person, knowing its content and character, to wholesale promote or to possess with intent to wholesale promote any obscene material or obscene devise.
- D. It shall be unlawful for any person, knowing its content and character:
1. to promote or to possess with intent to promote any obscene material or obscene devise; or
 2. to produce, present or direct an obscene performance or to participate in a portion thereof that is obscene.
- E. A person who promotes or wholesale promotes obscene material or an obscene device, or possesses the same with intent to promote or wholesale promote said obscene material or obscene device in the course of his business is presumed to do so with knowledge of its content and character.
- F. The prohibitions contained in Section IV (C) and (D) do not apply to a person who participates in conduct otherwise prohibited in the course of law enforcement activities.

SECTION 5. PENALTIES

- A. Any person who engages in conduct violating Section IV(A) shall be subject to a minimum civil penalty in the amount of \$100.00 and a maximum civil penalty in the amount of \$250.00.
- B. Any commercial enterprise which engages in conduct violating Section IV(A) shall be subject to a minimum civil penalty in the amount of \$750.00 and a maximum civil penalty in the amount of \$1,500.00, except that

1. If the violation takes place within 1,000 feet of the lot lines of (a) a public or private elementary or secondary school, (b) a day care facility, (c) a public park or public recreational facility, and/or (d) a church, synagogue or other house of religious worship, the minimum civil penalty shall be \$1,500.00 and the maximum civil penalty shall be \$3,000.00.
 2. If the violation occurs in a commercial enterprise that serves liquors and/or other alcoholic beverages, the minimum civil penalty shall be \$1,500.00 and the maximum civil penalty shall be \$3,000.00.
- C. Any commercial enterprise which has a license to serve liquors and/or other alcoholic beverages, and which engages in conduct violating Section IV(A), shall have his/her/its license to serve such liquors and/or other alcoholic beverages suspended and may not apply for another license to serve such beverages until at least six months from the date of said suspension.
- D. Any person who engages in conduct prohibited by Section IV(C) and (D) shall be subject to a minimum civil penalty in the amount of \$1,000.00 and a maximum civil penalty in the amount of \$2,000.00, except that if the violation takes place within 1,000 feet of the lot lines of (a) a public or private elementary or secondary school, (b) a day care facility, (c) a public park or public recreational facility, and/or (d) a church, synagogue or other house of religious worship, the minimum civil penalty shall be \$1,500.00 and the maximum civil penalty shall be \$3,000.00.
- E. Any business, corporation, partnership, association, commercial enterprise or other entity which engages in conduct prohibited by Section IV(C) and (D) shall be subject to a minimum civil penalty in the amount of \$1,500.00 and a maximum civil penalty in the amount of \$3,000.00, except that if the violation takes place within 1,000 feet of the lot lines of (a) a public or private elementary or secondary school, (b) a day care facility, (c) a public park or public recreational facility, and/or (d) a church, synagogue or other house of religious worship, the minimum civil penalty shall be \$2,000.00 and the maximum civil penalty shall be \$5,000.00.
- F. Each day that a person, business, corporation, partnership, association, commercial enterprise or other entity engages in conduct prohibited by Section IV(C) and (D), after being notified of the violation by the Code Enforcement Officer, or other municipal official specifically designated by ordinance or other law or by the municipal officers with enforcement authority, may be considered a separate violation.
- G. Violations of Section IV(A), (C) and (D) shall be deemed nuisances and may be abated by the Town.
- H. If the economic benefit resulting from the violation exceeds the applicable penalties under this section (Section V), the maximum civil penalties may be increased. Any increased civil penalty imposed under this subsection may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes,

but is not limited to, the costs avoided or the enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements.

SECTION 6. ENFORCEMENT

This ordinance may be enforced (1) by the Code Enforcement Officer or (2) by any other municipal official specifically designated by ordinance or other law or by the municipal officers, with such authority.

Upon determining that a violation has occurred, the enforcing officer shall notify the violator of the violation, order an immediate cessation of the prohibited activity, if appropriate, and impose an appropriate civil penalty under Section IV(A), (C) and (D).

If court action is necessary in order to enforce this ordinance, procedures similar to those set forth in 30-A M.R.S.A. § 4452 may be employed. Any such action shall be brought in the name of the Town and any civil penalties resulting from said proceedings shall inure to the benefit of, and be paid to, the Town.

If the Town is the prevailing party in any court action it shall be awarded its reasonable attorney fees and other enforcement costs.

SECTION 7. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining provisions of this ordinance.

Town of China
Quorum Requirement Ordinance
Amended November 3, 2015

SECTION 1.0: INTRODUCTION

1.1 AUTHORITY

This ordinance is adopted pursuant to 30-A M.R.S.A. §3001 and per Article VIII, Part 2, Section 1, of the Constitution of the State of Maine (Municipal Home Rule).

1.2 PURPOSE

To promote participation in local government and to insure that decisions are made by a reasonable percentage of registered voters in the Town of China and thus accurately reflect the will of the townspeople.

1.3 REPEAL

To the extent this ordinance is inconsistent with any other Town ordinances, resolves, codes or local rules or regulations, the provisions of this ordinance shall govern.

1.4 AMENDMENTS

This ordinance may be amended by a majority vote of the legislative body of the Town in accordance with this ordinance.

SECTION 2.0: OPENING THE OPEN TOWN MEETING AND QUORUM REQUIREMENT TO CONDUCT OFFICIAL TOWN MEETINGS BUSINESS

2.1 GENERAL REQUIREMENT

At the start of each Open Town meeting, after the election of a moderator in accordance with 30-A M.R.S.A. §2524(2), and before additional official business is conducted, the moderator must establish that a quorum of registered voters is present. A number equal to four percent of the residents registered to vote as of the first business day of January in the year in which the meeting is held shall constitute a quorum.

2.2 CONDUCT OF BUSINESS

Except to adjourn or continue the Open Town Meeting to a different time and/or date for lack of a quorum, no business may be conducted until a quorum has been established. After each adjournment for lack of a quorum determination, whether to a different date or to a different time, the moderator must establish that a quorum of registered voters is present. If a quorum has not been established, no official business other than adjournment may be conducted. (This is to be differentiated

from an adjournment or recess for lunch for example, at which time the reconvening of the meeting will not need an establishment of a quorum.)

SECTION 3.0: VOTING

3.1 MAJORITY

Once a meeting has been duly opened, and it has been established that a quorum of voters is present, any action requiring a vote shall be decided by a majority of those present and casting votes.

Previously Amended March 5, 1990 & June 10, 2008

Town of China Recreation Committee Ordinance

Section 1. Establishment

This Ordinance is adopted per Article VIII of the Constitution of the State of Maine (Municipal Home Rule). This ordinance shall repeal and replace any previous actions taken by any previous town meeting vote including but not limited to a vote taken in 1974. If any section, clause, provision, or portion of this Ordinance is determined unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance is not affected.

Section 2. Composition, Appointment, Term, Vacancies

The Committee shall consist of 7 members who shall be appointed by the Select Board annually. Members serving on the Recreation Committee as of the date of enactment of this Ordinance shall be entitled to serve the remainder of their appointments and 2 new members shall be appointed as soon as viable candidates are received.

A chairman and secretary shall be elected by the members at the first meeting of the town's fiscal year.

Section 3. Meetings

The Chairman shall call meetings as necessary or as requested by the municipal officers. A quorum necessary to conduct business shall consist of at least a majority of members. The Chairman shall preside at all meetings. The Secretary shall record the minutes of the meetings.

Section 4. Responsibilities

The Committee shall have the following responsibilities:

1. Prepare and submit a budget annually.
2. Review and make recommendations on recreational activities, repairs and maintenance, future projects and other issues/items as necessary.
3. Coordinate field usage and maintenance.
4. Report to the Select Board on recreational requests, field issues and projects.
5. Other responsibilities as directed by the Select Board and/or Town Manager.

**TOWN OF CHINA
SCHOOL BUDGET ORDINANCE
FEBRUARY 10, 1998**

SECTION 1. AUTHORITY AND PURPOSE

A. AUTHORITY

This Ordinance is adopted per Article VIII Part 2, of the Maine Constitution and the Home Rule provisions of Title 30-A M.R.S.A. Section 3001.

B. PURPOSE

The purpose of this ordinance is to provide for the maximum participation of voters in determining the annual appropriation for the Town of China School department.

SECTION 2. EFFECTIVE DATE

This ordinance shall become effective upon passage by a majority of votes cast at a Town Meeting.

SECTION 3. VALIDITY AND SEVERABILITY

Should any section or provision of this Ordinance be declared by the Courts to be invalid, such decision shall not invalidate any other section or provision of this School Budget Ordinance.

SECTION 4. AMENDMENTS

This Ordinance may be amended by a majority of voters of the legislative body of the Town of China.

SECTION 5. APPLICABILITY

All school budgets shall be voted upon by the method of voting known as the Australian ballot as provided in 30-A M.R.S.A. Section 2528.

SECTION 6. SUBMISSION OF SCHOOL BUDGET

Each year, the Town of China School Committee shall forward to the China Board of Selectmen a proposed budget for the following school/fiscal year. The submission of the budget shall be no less than 52 days prior to the date of the opening of the Annual or Special Town meeting at which the school articles shall be voted on.

SECTION 7. BUDGET FORMAT

The format of the budget to be considered shall be in a manner that allows only either a YES or NO response for each question presented. Questions to be presented shall be for Foundation Allocation, Debt Service payments, additional local funds requested, and any other appropriations deemed necessary by the China School Committee.

SECTION 8. COMMITTEE RECOMMENDATIONS

For each questions a financial appropriations for the operation of schools, there shall also be a recommendation of either a YES or NO from each of the following committees: The China School Committee, the China Budget Committee, and the China Board of Selectmen.

SECTION 9. FAILURE TO PASS BUDGET

The annual school budget may be submitted to the voters for approval at no more than two referendum elections. In the event that a plurality of voters reject the budget submitted by the School Department twice, the total local appropriations approved by the voters for the previous year's school budget shall automatically be considered the total local appropriations approved for the school operating expenses for the ensuing year.

Town of China

SOLID WASTE DISPOSAL ORDINANCE

Amended March 25, 2017

Town of China
SOLID WASTE DISPOSAL ORDINANCE

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SOLID WASTE DISPOSAL ORDINANCE

SECTION I: AUTHORITY

This ordinance has been prepared and adopted pursuant to the provisions of Title 30-A, Part 2; Title 38, Chapter 13, Sub Chapter 1.

SECTION II: PURPOSE

The purpose of this Ordinance is to protect public health and safety by providing rules and regulation for the proper operation of the Town Landfill and Transfer Station Facility, hereinafter called the Solid Waste Disposal Facility, and to provide that all waste generated in the Town are disposed of at the Solid Waste Disposal Facility.

SECTION III: DEFINITIONS

Administrator: Administrator is the town manager or other designated municipal officer who has the responsibility for administration of the Solid Waste Disposal Facility.

Ashes: Ashes means residue from the combustion of solid fuels.

Carrion: Carrion means animals, birds, and other living creatures that have died naturally or have been accidentally killed. Animals or parts of animals from slaughter houses are not included in this category.

Demolition Debris: See Inert Materials

Electronic Waste: Attempts will be made to recycle all electronics. Those not capable of recycling will be disposed of in accordance with MRSA 38, Chapter 16, Section 1610.

Equipment, Backup: Backup equipment means equipment available to the site supervisor within a certain period of breakdown of the primary Solid Waste Disposal Facility equipment.

Equipment, Solid Waste: Solid waste equipment means any equipment including buildings onsite used for solid waste storage, compaction, transfer, covering, grading, and other operational activities.

Hazardous Waste: (Reference MRSA Title 38, Chapter 13). Hazardous Waste means a substance designated as hazardous by the Department of Environmental Protection. A hazardous waste is a

waste that exhibits a hazardous characteristic or is a listed waste. There are four criteria that define a characteristic waste. They are:

1. Ignitability
2. Corrosives
3. Reactivity
4. Toxicity

There are also four categories of listed wastes. They are:

1. Non-specific sources, such as a halogenated solvent
2. Specific sources, such as bottom sludge from wastewater treatment of wood preserving processes that use creosote and/or pentachlorophenol
3. Commercial chemical products, intermediates or off-specification products. There are two lists for this category, one for acute wastes and one for non-acute wastes. An example of an acute waste is epinephrine. An example of a non-acute waste is naphthalene.
4. Polychlorinated biphenyl. (PCB's)

Household Hazardous Waste: Is an exempted residentially generated waste that exhibits hazardous waste characteristics (i.e., would be considered a hazardous waste if generated by a non-exempted entity)

Hot Loads: Hot Loads means any loads of solid waste that are on fire, smoldering, or are potentially flammable by spontaneous combustion. Hot loads include wood ashes, cigarette tray residue, coal ash and clinkers, residue from a fire, etc.

Household Wastes: Household wastes means mixed refuse, ashes and bulk refuse originating in and around private dwellings, multiple dwellings, living quarters or dining facilities located at schools.

Inert Material: Inert material means solid waste that does not react with other substances under ordinary conditions, including but not limited to concrete, rocks, bricks, plaster, building construction wastes, etc.

Landfill, Sanitary: Sanitary landfill means a disposal facility for solid waste on land designated to protect the environment.

Landscape Refuse: Landscape refuse means leaves, garden stubble, lawn rakings, weeds and other material that can be composted and reused as a soil conditioner.

Resource Recovery: Resource recovery means the recovery of materials or substances that still have useful physical or chemical properties after serving a specific purpose and can be reused or recycled for the same or other purposes.

Salvaging: Salvaging means the controlled removal of reusable discarded solid waste.

Septage: Septage means waste, refuse, effluent, sludge and any other materials from septic tanks, cesspools, or any other similar waste storage or treatment facilities.

Sludge: Sludge means the concentration of solids resulting from the treatment of liquid wastes such as sewage, industrial waters, commercial wastes, etc.

Special waste: "Special waste," means any solid waste generated by sources other than household and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, that may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures. Special waste includes, but is not limited to:

1. Ash;
2. Industrial and industrial process waste;
3. Sludge and dewatered septage;
4. Debris from nonhazardous chemical spills and cleanup of those spills;
5. Contaminated soils and dredge materials;
6. Asbestos and asbestos-containing waste;
7. Sand blast grit and non-liquid paint waste;
8. High and low pH waste;
9. Spent filter media residue; and
10. Shredder residue.

Solid Waste: Solid waste means unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitation, rubbish, garbage, junk, refuse, inert household waste material, landscape refuse, wood wastes, white goods; but not including sludge, septage, hazardous wastes, agricultural or industrial wood by-products.

Solid Waste Disposal Facility (SWDF): Solid Waste Disposal Facility means all facilities owned by the Town used to transport or dispose of solid waste, including the sanitary landfills, solid waste equipment, etc. In the Town of China, the term "Transfer Station" is synonymous with Solid Waste Disposal Facility.

Solid Waste Management: Solid waste management means purposeful, systematic, and unified control of the collection, storage, transportation, processing, salvaging, and disposal of solid waste.

Storage: Storage means the containment of any waste that is not hazardous, for a period of less than one year, in such a manner as not to constitute disposal.

Tires: Tires shall include all tires, tubes, and rubber protective flaps. Tire rims are not included under this definition.

Transfer Station Facility: Transfer station facility (also known as a Solid Waste Disposal Facility) means a facility constructed and managed to store, dispose of and/or process and place solid wastes in containers for transport to a disposal facility.

Transfer Station Supervisor: Transfer Station Supervisor has the responsibility to properly operate and maintain the transfer station facility. The Town Manager supervises the Transfer Station supervisor.

Transport: Transport means movement of solid waste from the point of generation to any intermediate points, and finally to the point of ultimate storage or disposal.

Trash: Garbage, rubbish and refuse generated by households that cannot be recycled or reused in any practical way that is characterized as solid waste and generally fits inside of a 33 gallon trash bag, which is therefore disposed of as waste in the Town's solid waste compactor.

Unacceptable Wastes: This category shall include, but not be limited to, the following items:

Tires with wheels	Trees over 12" in diameter
Car Batteries	Compressed Gas Cylinders other than propane
Abandoned or junk vehicles	Engine blocks
Snowmobiles/ATVs	Dredged materials
Dead animals/other Pathological wastes	Hot loads
Special Waste	Compressed Gas Cylinders
Stumps	Hazardous Waste
Fuel tanks other than propane	55 gallon drums/steel tanks*
Liquids (except those deemed appropriate by the Supervisor)	*unless empty, cut in half, clean and dry.

White Goods: White goods means large appliances, including but not limited to stoves, refrigerators, freezers, washing machines, clothes dryers, dishwashers, air conditioners, toaster ovens.

Wood Waste: Wood waste means dry waste made of wood, including trees, stumps, brush, slabs, edgings and pallets.

SECTION IV: GENERAL PROVISIONS AND PROHIBITIONS

1. USE OF THE FACILITY

The Transfer Station is located at 191 Alder Park Road. The Supervisor or the Attendant in charge shall be responsible for the operation of that facility. No person using the Facility shall violate any directive put forth by the Attendant or by this Ordinance. If a person refuses to obey a directive of the Attendant, the Attendant will immediately refuse that person access to the Transfer Station. The Attendant(s) may examine any material brought to the Transfer Station to insure that this Ordinance is in compliance. The Attendant(s) may refuse to accept any solid waste that is hazardous or that is not separated in accordance with this Ordinance. Police enforcement may be used if necessary. Violators will be prosecuted.

No waste will be deposited at the Facility after the hours of operation.

2. HOURS OF OPERATION

The Facility shall be open as follows:

Monday	7:00 AM to 5:00 PM
Tuesday	7:00 AM to 5:00 PM
Friday	7:00 AM to 5:00 PM
Saturday	7:00 AM to 5:00 PM

These hours may be changed by a vote of the Select Board. The Transfer Station may be closed on legal holidays.

3. All waste generated or produced within the legal borders of the Town of China shall be delivered to the Transfer Station, except as indicated elsewhere in the Ordinance, or as otherwise provided for by State Law. Waste generated from outside the Town will be disposed of in accordance with a legal agreement signed by the Select Board. All other waste to be disposed of will be charged at a rate set by the Select Board. Exceptions to this policy will be made on a case by case basis by the Town Manager.

4. WASTE DISPOSAL CATEGORIES

All residents, private or commercial haulers, or other legally authorized individuals delivering waste to the Transfer Station shall be required to separate and dispose of all wastes as follows:

ITEM

DISPOSAL AREA

Paint	Paint storage area
Trash	Compactor or overflow container
Landscape refuse, leaf and yard waste	Compost area
Recycling	Transfer Station recycling area
Refrigerators/air conditioners	White Goods Area/ Freon removal
Ovens, other metal appliances	White Goods/metals Area
Trees, brush and other wood wastes	Wood Disposal Area
Stumps or large tree trunks	Not Accepted
Inert material or Demolition Debris	Demolition Container
Hazardous Wastes	Not Accepted
Carrion	Not Accepted
Septage	Not Accepted
Sludge	Not Accepted
Special Waste	Not Accepted
TVs/computer and other e-waste	Universal Waste storage area
Unacceptable Wastes	Not Accepted (see list or Supervisor)
Waste Oil	Designated waste oil area

5. Wastes identified as “Unacceptable” will not be left at the Transfer Station. Penalties for unauthorized disposal can be levied by the Town.
6. All solid waste transported within the Town must be placed in covered containers and/or securely fastened to the vehicle to prevent spillage and litter. Anyone transporting Solid Waste in China shall be responsible for the transportation of solid waste from point of pickup to the Solid Waste Facility. **ALL LOADS WILL BE COVERED OR SECURED IN ACCORDANCE WITH STATE LAW.**
7. All solid waste transporters conducting household pickup and delivery to the transfer station shall be registered annually by the Town.
8. All users of the Transfer Station must obtain a decal from the Town Manager, or their designated representative, at the Town Office. This decal must have the same license number of the vehicle depositing solid waste and must be displayed in plain sight. Individuals or businesses without a decal will be denied use of the Transfer Station.

9. Only waste that is generated within the Town of China is to be delivered to the Transfer Station Facility. Waste generated in other communities will not be accepted without specific prior authorization and a contract established and approved by Select Board and violators of this section will be punished as set forth in section VII.
10. The Select Board shall establish fees for use of the facility.
11. Users of the China Transfer Station will not dispose of metal, newsprint, magazines, and cardboard with their household waste or place these materials into the solid waste compactor. Metal, newspaper and cardboard may be disposed of at the recycling drop off area free of charge.
12. Recycling material that the Town accepts for recovery is encouraged. China recycles cardboard, paperboard, junk mail, magazines, newspaper, plastics, glass, tin cans, and aluminum. The Town Manager reserves the right to alter the list of acceptable items for recycling. Signs will be posted when significant changes are made to this policy.
13. The following categories of waste shall be exempted from regulation by this ordinance:

Materials from manufacturing processing or packaging operations which are segregated from solid waste and salvaged for alternate use or reuse by the generator or sold by third parties. Glass, metal or noncombustible materials which are separated from the acceptable waste by generator as part of a recycling program. Cardboard, paper and other combustible materials which are separated from the acceptable waste by generator as part of a recycling program. This policy may be modified at the discretion of the Attendant for day to day operational changes.

SECTION V: MANAGEMENT RESPONSIBILITY

The Town, through the Select Board, assumes overall responsibility for the Town-owned Transfer Station and for proper disposal of wastes accepted there.

The Administrator of this Ordinance and overall Manager of the Transfer Station is the Town Manager.

The Transfer Station Supervisor is responsible for day-to-day operation and maintenance of the Facility.

It is the duty of the Town Manager to enforce this Ordinance. All violations will be promptly enforced and violators prosecuted. It shall be the special duty of Law Enforcement personnel to promptly summons any violators of this Ordinance.

Other responsibilities and duties shall be as outlined in the Solid Waste Disposal Facility Operational and Maintenance Manual or as designated by the Town Manager.

Solid Waste shall be disposed of at the Transfer Station during the hours previously noted and designated by the Select Board.

The Solid Waste Disposal Facility (Transfer Station) shall be operated in accordance with the Maine Department of Environmental Protection (DEP) and Maine Department of Labor (DOL) regulations, operations and maintenance manuals or as designated by both the Town Manager and the Departments.

All Solid waste delivered and deposited for disposal at the Town Solid Waste Disposal Facility shall become the property of the Town. No person shall separate, collect, carry off or dispose of such materials unless authorized in writing by the Administrator.

SECTION VI: ENFORCEMENT

All provisions of this Ordinance are enforceable by duly authorized police officers, Town Employees and the Municipal Officers.

Any person who violates any provision of this Ordinance is subject to arrest and, if convicted, to punishment as provided in Section VII.

Whenever the Municipal Officers determine that there has been a violation by virtue of noncompliance, they shall give notice of such violation to the person(s) responsible by personal service or by certified mail, return receipt requested. The citation shall include a statement of reasons and shall allow reasonable time for performance of any act it requires. The citation may contain an outline remedial action which, if taken, will effect compliance. The citation shall state that unless corrections are made within the allotted time, the violator is subject to prosecution and/or to permit or license revocation or suspension pursuant to the provisions of this ordinance.

SECTION VII: PENALTIES

Criminal penalties: Any person who violates this Ordinance shall be guilty of a Class E crime for each violation.

Civil penalties: Any person, firm or corporation who violates this Ordinance shall be subject to a civil penalty, payable to the municipality, of not more than \$500 for each violation. Each day of violation shall be considered a separate violation. Such person, firm or corporation shall also be liable for court costs and reasonable attorney fees incurred by the Municipality.

SECTION VIII: SEVERABILITY

Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

SECTION IX: EFFECTIVE DATE

This Ordinance shall take effect and be in force from the date of adoption, March 25, 2017.

Town of China

SOLID WASTE FLOW CONTROL ORDINANCE

Amended March 25, 2017

Town of China
SOLID WASTE FLOW CONTROL ORDINANCE

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SECTION I: AUTHORITY

This ordinance shall be known as the "Solid Waste Flow Control Ordinance of the Town of China, Maine." This ordinance is enacted pursuant to the authority granted in Title 30-A, Part 2; Title 38, Chapter 13, Sub Chapter 1

SECTION II: PURPOSE

The Town has a statutory obligation to provide a solid waste disposal and recycling facility for domestic and commercial waste generated within the Town and is authorized to provide such a facility for industrial waste pursuant to Title 38 M.R.S.A. Sec. 1305, subsection 1.

Town solid waste contains valuable recoverable resources, including energy, which if recovered reduce the cost of solid waste disposal. Because energy technology is complex, most energy recovery facilities have high capital costs and long payback periods. To remain cost effective and operate efficiently during their useful lives, energy recovery facilities require a guaranteed steady supply of waste during their useful lives. Consequently, a Town that wants to utilize an energy recovery facility for processing solid waste generally must agree to provide a facility with a steady supply of solid waste for a relatively long period.

The Town may exercise its legal authority to control the disposal of solid waste generated within its borders to insure delivery of a steady waste to the energy recovery facility designated herein. The Town finds that use of an energy recovery facility to process acceptable solid waste is an environmentally sound and economically viable solution to the solid waste disposal problem and thereby protects the public health, welfare and safety of the citizens of China.

This Ordinance is designed to control solid waste material in the Town by establishing limitation, prohibiting certain acts causing solid waste disposal problems and providing for fines for violations of the provisions of this Ordinance.

SECTION III: HAZARDOUS WASTE

No hazardous waste shall be delivered to the Facility. Disposal of Hazardous waste will be Illegal dumping and enforceable by Law. The Facility will, in accordance to DEP regulation, manage these materials in accordance to its Hazardous waste exclusion plan (see Section VI).

Hazardous Waste is defined and regulated under state and federal statute and regulated under Maine Department of Environmental Protection rules.

SECTION IV: UNACCEPTABLE WASTE

The following types of waste shall not be accepted at the Facility.

1. Liquid waste or sludge, including septage.
2. Abandoned, junked vehicles.
3. Hazardous waste that is, waste with inherent properties that make it dangerous to manage by ordinary means, including but not limited to chemicals, explosives, pathological wastes, radioactive waste, toxic waste, and other wastes defined as hazardous by the State of Maine or the Resource Conservation Act of 1976, as amended or other federal, state or local laws, regulations, orders or other actions promulgated or taken with respect thereto.
4. Dead animals or portion thereof.
5. Water treatment residues.
6. Tannery sludge.
7. Asbestos.
8. Large tree stumps or trees 12 inches in diameter.
9. Car batteries.

SECTION V: RESIDENTIAL AND COMMERCIAL ON-SITE STORAGE AND DISPOSAL REQUIREMENTS

Storage shall be the responsibility of all owners of real property or primary occupants of dwelling, commercial and industrial facilities. Storage shall be in closed containers or by other similar methods to preclude odors, rain, rodents, insects, etc. from becoming a nuisance.

SECTION VI: DEFINITIONS

All terms not specifically defined herein shall have their ordinary meaning, words used in the present tense includes the future, and plural includes the singular.

Acceptable Waste: All ordinary household, municipal, institutional, commercial and industrial waste which consist primarily of combustible/biodegradable matter.

Attendant: Any person employed by the Town to supervise and operate the Solid Waste Facility.

Collection Facility: A building, container or designated area of the transfer station in which acceptable waste is deposited and temporarily stored for transshipment to the energy recovery facility.

Energy Recovery Facility: The facility designated herein which processes and recovers energy and/or useful materials from acceptable waste generated in the Town.

Facility: The Town of China Solid Waste Disposal and Recycling Facility. The facility may consist of more than one site and more than one system of Solid Waste Management.

Hazardous Waste: Any waste which federal and/or state government have determined to be hazardous in composition.

Hot Loads: Shall include solid waste that are on fire, smoldering, or are potentially flammable.

Landscape Refuse: Leaves, garden stubble, lawn raking, weeds and other materials that can be composted and reused as a soil conditioner.

Town: The Town of China, Maine.

Person: Shall include individuals, partnerships, corporations, and agents of any of them.

Storable Waste: Solid waste of the type presently received at the Facility, but which may be stored at the Facility, including the following:

1. Demolition or construction debris from building and roadway projects or locations;
2. Small tree stumps, brush. Branches, yard wastes;
3. Waste oil;
4. Discarded "White goods" including but not limited to refrigerators, freezers, stoves and washing machines.

Unacceptable Waste: All solid waste of the type municipalities are required by Title 38 M.R.S.A. Sec. 1305, as amended, to regulate, which specifically exclude industrial and sewage treatment plant sludge, and solid and liquid waste of the type presently prohibited for disposal at the Facility, as defined under the China Solid Waste ordinance.

Volunteers: residents of the town assisting Transfer Station staff.

SECTION VII: DESIGNATION

In accordance with provisions of Title 38 M.R.S.A. Sec. 1304-B, the Town hereby designates the Fiberight facility, as the energy recovery facility and disposal facility for acceptable waste.

The Town also designates the Town owned and operated transfer station in China, off the Alder Park Road, whose operation shall be conducted in accordance with the rules and regulations of the Maine Department of Environmental Protection and this ordinance, as the temporary disposal facility for acceptable waste.

The Town further reserves that they may designate an alternative disposal facility for a specified time for acceptable waste, should circumstances require it, upon a majority vote of the Town Officers.

SECTION VIII: REGULATED ACTIVITY

The accumulation, collection, transportation and disposal of acceptable wastes, storable waste and unacceptable wastes generated within the Town shall be regulated in the following manner:

All acceptable wastes generated within the Town may be deposited at the Facility or directly at the energy recovery facility.

All storable wastes may be deposited at the Facility in accordance with the provisions of the solid waste ordinance.

All unacceptable wastes, including hazardous wastes, generated within the Town shall be deposited only at the suitable waste disposal facility which is designated for the express purpose of handling said unacceptable waste, or remediated by licensed and insured hazardous waste companies.

SECTION IX: SOLID WASTE DISPOSAL CONTROL STANDARDS AND REGULATIONS

The Town officers are hereby granted authority to establish fees and other control measures in accordance with managing solid waste disposal as required to satisfy the needs of the Town. They shall include, but not be limited to, changes in the operating hours of the Facility, permitting, transportation and collection and disposal fees. Policy shall become effective thirty (30) days following adoption by the Town Officers. The current Ordinances shall be prominently displayed at the facility, be available at no cost and on file in the Town Offices, on line or as designated by the Town.

SECTION X: ADMINISTRATION

This ordinance shall be administered by the Town Officers. Their power and duties are as follows:

To review any alleged violation of this Ordinance, and to impose appropriate penalties therefore after notice and hearing as required by this ordinance.

To institute necessary proceedings, either legal or equitable, to enforce this Ordinance.

The Waste Disposal Agent shall be the Town Manager who shall have the following responsibilities:

1. Oversee the day-to-day operation of the solid waste disposal facility including the transfer stations demolition site and the recycling center.
2. Supervise the personnel on site to include Town employees.

SECTION XI: PERMITS AND STICKERS

The Facility is operated for the benefit of the resident, nonresident taxpayer and commercial establishments of the Town of China. Requests from other persons or agencies for access to the Facility may be approved at the discretion of the Town Officers. Admission to the Facility shall only be by sticker which shall be displayed in order to gain access. Stickers may be revoked by the Municipal Officers, following notice and hearing, for violation of this Ordinance or rules and regulations adopted pursuant thereto. Stickers shall not be transferrable.

All stickers shall expire after the date on the sticker unless revoked or suspended sooner in accordance with the provisions of this ordinance.

In the event that the Town Officers deny a sticker application they shall notify the applicant, in writing, and shall state the reason for the denial. The applicant may request a hearing in accordance with the procedures in Section XIII.

SECTION XII: SUSPENSION OR REVOCATION

Any sticker issued will be suspended or revoked by order of the Town Officers after benefit of a hearing in accordance with the procedures in Section XIII, for the following causes:

- a. Violation of this Ordinance.
- b. Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of the Ordinance.

SECTION XIII: HEARINGS

Anyone denied a sticker or is suspended or revoked pursuant to Section XII, shall be entitled to a hearing before the Town Officers if such a request is made, in writing, within thirty (30) days of the denial, suspension or revocation.

Such hearing shall be held within thirty (30) days after receipt of the written request for a hearing.

The applicant shall be notified, in writing, as to the date, time and place of the hearing at least ten (10) days prior to the hearing date. The applicant has the right to be represented by counsel, to offer evidence and to cross-examine the witnesses. These hearings shall be open to the public.

A determination shall be made by the Town Officers within ten (10) days after the conclusion of the hearing, and notice of the decision shall be served upon the applicant by certified mail, return receipt requested.

The Town Officers' final determination relative to the denial, suspension or revocation shall take effect as provided in the notice, but no later than ten (10) days after the date on which such notice has been mailed to the applicant, and shall be conclusive.

Notice of the final determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof together with a statement that such decisions may be appealed as provided in this Ordinance.

Any controversy or claim arising out of or relating to the Town Officers determination shall be directly reviewable by Superior Court pursuant to the Maine Rules of Civil Procedure, Rule 80b.

SECTION XIV: ENFORCEMENT

All provisions of the Ordinance are enforceable by duly authorized police officers and the Municipal Officers.

Any person who violates any provision of this Ordinance is subject to arrest and, if convicted, to punishment as provided in Section XV.

Whenever the Town Officers determine that there has been a violation by virtue of noncompliance, they shall give notice of such violation to the person(s) responsible by personal service or by certified mail, return receipt requested. The citation shall include a statement of reasons and shall allow reasonable time for performance of any act it requires. The citation may contain an outline of remedial action which, if taken, will effect compliance. The citation shall state that unless corrections are made within the allotted time, the violator is subject to prosecution and/or to permit or license revocation or suspension pursuant to the provisions of this ordinance.

SECTION XV: PENALTIES

Criminal penalties: Any person who violates this Ordinance shall be guilty of a Class E crime for each violation.

Civil penalties: Any person, firm or corporation who violates this Ordinance shall be subject to a Civil Penalty, payable to the Town, of not more than \$500.00 for each violation. Each day of violation shall be considered a separate violation. Such person, firm or corporation shall also be liable for court costs and reasonable attorney fees incurred by the Town.

After hours violation: Any person, firm or corporation who violates this Ordinance by dumping after the hours of operation shall be subject to a civil penalty, payable to the Town, of not more than \$200.00 for each violation.

SECTION XVI: VARIANCES

The Town Officers may, on written application, grant a variance from a specific provision of this Ordinance in a specific case subject to appropriate conditions where such variance is in harmony with the general purpose and intent of this Ordinance and that agreement between the Town and the energy recovery facility.

SECTION XVII: CONFLICT AND SEVERABILITY

The provisions of this Ordinance shall supersede all other local laws, ordinances, resolution, rule or regulations contrary thereto, or in conflict therewith.

The provisions of this Ordinance shall be severable and if any phase, clause, sentence or provision or the application thereof to any person or circumstance shall be held invalid, the remainder of this Ordinance and the application thereof shall not be affected thereby.

SECTION XVIII: AMENDMENT

This ordinance may be amended in the same manner as any other ordinance of the Town, subject to the contractual obligations outlined in the contract between the Town and the energy recovery facility.

SECTION XIX: EFFECTIVE DATE

This Ordinance shall take effect and be in force from the date of adoption, November 8, 2016.

CHAPTER 3. SUBDIVISION ORDINANCE

SECTION 1. ADMINISTRATION

The Planning Board of the Town of China, hereinafter called the Board, shall administer these standards.

SECTION 2. EXEMPTION

The provisions of this Ordinance shall not apply to any subdivision which has been approved by the municipal officers or the Planning Board and recorded in the Registry of Deeds of Kennebec County prior to enactment of the Ordinance, unless such subdivision is submitted for revision or re-subdivision at which time the provisions of this ordinance shall be applied to all undeveloped lands in the original subdivision.

SECTION 3. PREAPPLICATION

3.1 Procedure.

- A. Applicant presentation and submission of sketch plans.
- B. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
- C. Scheduling of on-site inspection by the code enforcement officer.

3.2 Submission.

The Preapplication sketch plan shall show, in simple sketch form, the proposed layout of the roads/streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development.

3.3 Contour Interval and On-Site Inspection.

Within thirty days, the Board shall determine and inform the applicant in writing what, if any, contour interval will be required on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision. The code enforcement officer will hold an on-site inspection and report to the Board within the same thirty day period. The applicant shall place "flagging" at the center line of any proposed streets, and at the approximate intersections of the street center lines and lot corners, prior to the on-site inspection.

3.4 Rights not Vested.

The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., S302.

SECTION 4. MINOR SUBDIVISIONS

4.1 General.

The Board may require, where it deems it necessary for the protection of public health, safety, and welfare, that a Minor Subdivision comply with all or any of the submission requirements for a Major Subdivision.

4.2 Procedure.

- A. Within six months after the on-site inspection by the code enforcement officer, the subdivider shall submit an application for approval of a Final Plan. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout on the Sketch Plan, plus any recommendations by the Board.
- B. All applications for Final Plan approval for Minor Subdivisions shall be accompanied by an application fee of \$100.00 payable by check to the Town of China.
- C. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- D. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall schedule a public hearing to be held within thirty days, or within another time limit mutually agreed to by the Board and the subdivider. Public notice shall be given for the hearing, and the abutting landowners to the proposed subdivision shall be notified by the applicant by certified mail return receipt, with the applicant to be responsible for all costs of the mailing and the public notice. A complete application shall include the information listed in Section 4.3 of this Ordinance.
- E. Within thirty days of the public hearing, the Board shall approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing the reasons for any conditions or denial.
- F. Before granting approval of any application for a subdivision, the Board shall determine that, based on clear and convincing evidence presented to it by the applicant, the proposed project meets the guidelines in Section 7 of this Ordinance.

4.3 Submissions.

- A. The subdivision plan for a Minor Subdivision shall consist of one reproducible, stable based,

transparent original to be recorded at the Registry of Deeds and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the plan shall be submitted.

The application for approval of a Minor Subdivision shall include the following information:

1. Proposed name of the subdivision, or identifying title, the name of the town in which it is located, plus the Assessor's Map and Lot numbers.
2. Verification of right, title or interest in the property as shown by notarized documentation.
3. A Boundary Survey by a licensed land surveyor, The plan shall indicate the type of monument to be set or found at each corner. Monuments shall be set in accordance with Section 11.6(A) of this Ordinance.
4. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any deed restrictions intended to cover all or part of the lots in the subdivisions.
6. For each proposed lot a test pit analysis, prepared by a Licensed Site Evaluator, shall be provided. A map showing the location of all test pits dug on the site shall be submitted. Acceptance of such test pit analysis for the purpose of subdivision does not imply that the requirements of the Town of China Land Use Ordinance for subsurface wastewater disposal systems have been met.
7. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
8. The date the plan was prepared, north point, graphic map scale, names and addresses of the record owner, applicant/subdivider and individual or company who prepared the plan, and the names and addresses of abutting property owners. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.
9. Location of existing and proposed water mains, wells, hydrants; sewers and septic systems; and electric poles.
10. Lots, if any, to be used for purposes other than single family dwellings.

11. A copy of the portion of the county Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
12. The number of acres within the proposed subdivision, location of property lines, lot areas in square feet, existing buildings, watercourses, vegetative cover type, and other essential existing physical features. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted.
13. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
14. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
15. A hydrogeologic assessment prepared by Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when any part of the subdivision is located over a sand and gravel aquifer as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers" by the Maine Geological Survey, 1985, Maps No. 17 & 18.

SECTION 5. MAJOR SUBDIVISIONS

5.1 Procedure.

- A. Within six months after the on-site inspection by the code enforcement officer, the subdivider shall submit an application for approval of a Final Plan. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout on the Sketch Plan, plus any recommendations by the Board.
- B. All applications for Final Plan approval for Major Subdivisions shall be accompanied by an application fee of \$25.00 per lot or dwelling unit, payable by check to the Town of China. 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 a fee of \$50 per lot or dwelling unit 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 \$25 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$25 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. The total of this fee shall not exceed \$5,000. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant.

- C. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:
 - 1. Maine Department of Environmental Protection, under the Site Location of Development Act, Alteration of Coastal Wetlands Act, Great Ponds Act, Fresh Water Wetlands Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.
 - 2. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
 - 3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
 - D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
 - E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall schedule a public hearing to be held within thirty days, or within another time limit mutually agreed to by the Board and the subdivider. Public notice shall be given for the hearing, and the abutting landowners to the proposed subdivision shall be notified by the applicant by certified mail return receipt, with the applicant to be responsible for all costs of the mailing and the public notice. A complete application shall include the information listed in Section 5.2 of this Ordinance.
 - F. Within thirty days of the public hearing, the Board shall approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing the reasons for any conditions or denial.
 - G. Before granting approval of any application for a subdivision the Board shall determine that based on clear and convincing evidence presented to it by the applicant, the proposed project meets the guidelines in Section 7 of this Ordinance.
- 5.2 Submissions for approval of a Major Subdivision shall be the same as the submissions listed for a Minor Subdivision plus the following items:
- A. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
 - B. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
 - C. The location of any open space to be preserved and a description of proposed improvements and its management.

- D. A soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the latest revised edition of the Environmental Quality Handbook published by the U.S. Soil Conservation Service.
- E. A plan for the disposal of surface drainage waters designed to minimize the transport of phosphorus to China Lake or Three-Mile Pond.
- F. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the Town of China of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Town of China Board of Selectman are satisfied with the legal sufficiency of the written offer of cession shall be included.
- G. In a non-residential subdivision an estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.
- H. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets. Trip generation rates used shall be the mean value reported in Table 3 of Development and Application of Trip Generation Rates, Kellerco, Inc., published by the Federal Highway Administration, January 1985.
- I. If the application calls for the construction of new roads, streets or portions thereof, the application shall also include the following information:
 - 1. The anticipated starting and completion dates of each major phase of street construction;
 - 2. A statement indicating the nature and volume of traffic expressed in average daily traffic (ADT) expected to use the proposed street.
 - 3. The plans and illustrations submitted as part of the application shall be prepared by a registered land surveyor or professional engineer and shall include the following information:
 - a. The scale of the plan. (All streets and roadway plan and profile drawings shall be drawn to a scale 1"=50' horizontal and 1"=10' vertical.);

- b. The direction of magnetic north;
- c. A plan profile and typical cross section views of all proposed streets;
- d. The starting and ending point with relation to established roads, streets or ways, and any planned or anticipated future extensions of the streets. (All terminal points and the center line alignment shall be identified by survey stationing.);
- e. The roadway and roadway limits with relation to existing buildings and established landmarks;
- f. Dimensions, both lineal and angular, necessary for locating boundaries, and necessary for locating subdivisions, lots, easements, and building lines;
- g. The lots, if any, as laid out and numbered on said street, showing the names and addresses of all owners of abutting property, and the registry references to the abutting property;
- h. All natural waterways and watercourses in or on land contiguous to the said streets or ways;
- i. The kind, size, location, profile and cross section of all existing and proposed drainage ways and structures and their relationship to existing natural waterways;
- j. The soil erosion and sedimentation control plan showing interim and final control provisions;
- k. Curve data for all horizontal and vertical curves shall include the center line radius, arc length along the centerline radius, beginning of curve and end of curve points along the centerline radius;
- l. All center line gradients shall be shown and expressed as a percent;
- m. All curve and property line radii of intersections;
- n. The limits and location of any proposed sidewalks and curbing;
- o. The location of all existing and proposed overhead and underground utilities, to include, but not limited to the following: [NOTE: When a location, in the case of any underground utility, is an approximate location, it shall be noted on the plan as such.]
 - (1)Storm drains;
 - (2)Telephone line poles or underground vaults;
 - (3)Electrical power line poles or underground vaults;
 - (4)Street lights;
 - (5)Public water supply lines;
 - (6)Sanitary sewer lines;

- p. The name(s) of each proposed new road or street.
- J. If the subdivision plan contains a private road, a Proposed Road Maintenance Declaration;
- K. If the subdivision plan contains a private road, Proposed Road Association Articles of Incorporation.
- L. Name of engineer or design professional to certify, at the applicant's expense, that the road or street design has been met.

SECTION 6. NON-RESIDENTIAL SUBDIVISIONS

6.1 General.

All Non-residential subdivisions shall comply with the submission requirements for a Major Subdivision.

SECTION 7. GUIDELINES

Before granting approval of any application for a subdivision the Board shall determine that, based on clear and convincing evidence presented to it by the applicant, the proposed project meets the following guidelines.

- 7.1 Will not result in undue water or air pollution. In making this determination it shall at least consider: the elevation of the land above sea level and its relation to the flood plain; the nature of the soils and subsoils and their ability to adequately support waste disposal; protection of the aquifer and the rights of present and future users of the aquifer to a safe water supply; the slope of the land and its effect on effluents; the proximity to streams and other water bodies; and the applicable state and local health and water resources regulations.
- 7.2 Has sufficient water available for the reasonably foreseeable needs of the subdivision.
- 7.3 Will not cause an unreasonable burden on an existing water supply if one is to be utilized.
- 7.4 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- 7.5 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed.
- 7.6 Will provide for adequate solid and sewage waste disposal.
- 7.7 Will not cause an unreasonable burden on the ability of a municipality to dispose of solid

waste and sewage if municipal services are to be utilized.

- 7.8 Will not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services.
- 7.9 Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.
- 7.10 Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any.
- 7.11 The subdivider has adequate financial and technical capacity to meet the above listed standards.
- 7.12 Whenever situated, in whole or in part, within 500 feet of any pond, lake or river, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
- 7.13 The subdivision shall be consistent with the provisions of the Town of China Land Use Ordinance in terms of soil suitability, lot dimensions, and types of land uses for which lots are to be sold.

SECTION 8. FINAL SUBDIVISION APPROVAL

- 8.1 No plan shall be approved by the Board as long as the subdivider is in violation of the provisions on a previously approved Plan.
- 8.2 The Planning Board shall not sign the final plan until a licensed surveyor certifies in writing that all the required monuments have been correctly placed.
- 8.3 Upon findings of fact and determination that all standards in Section 7 of this Ordinance, and any other applicable state or local regulations have been met, and upon voting to approve the subdivision the Board shall sign the Final Plan. The Board shall specify in writing its findings of fact and reasons for any conditions or denial. The applicant shall provide two reproducible transparencies and three paper copies of the plan. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.
- 8.4 The approval by the Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of China of any road or street, easement, or other open space shown on such plan as a public road or street, easement or open space. When a park, playground or other recreation area shall have been shown on the plan to be

dedicated to the Town of China, approval of the Plan shall not constitute an acceptance by the Town of China of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Town of China Board of Selectmen, covering future deed and title, dedication and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

- 8.5 Failure to commence substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

SECTION 9. REVISIONS TO APPROVED PLANS

9.1 Procedure.

An applicant for a revision to a previously approved plan shall, at least seven days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or units, the procedure for preliminary plan approval shall be followed. If the revisions involve only modifications of the approved plan, without the creation of additional lots or units, the procedures for final approval shall be followed.

9.2 Submissions.

The applicant shall submit a copy of the approved plan, as well as two reproducible transparencies and three paper copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations.

9.3 Scope of Review.

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed except when such changes involve the creation of two (2) or more additional lots and/or units.

SECTION 10. ENFORCEMENT

10.1 Inspection of Required Improvements.

- A. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall:
 - 1. Notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements so that the Board of Selectmen may cause

inspection to be made to insure that all town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

2. Deposit with the Board of Selectmen a check for an amount no greater than 2% of the estimated costs of the required improvements to pay for the costs of inspection. The Board of Selectmen may waive this requirement at their discretion.
- B. If the Code Enforcement Officer finds upon inspection the improvements have not been constructed in accordance with the plans and specifications filed by the subdivider and/or do not meet the requirements of the applicable ordinance of the Town of China, he shall so report in writing to the Board of Selectmen, Planning Board, and the subdivider or builder. The Board of Selectmen shall take any steps necessary to preserve the Town of China's rights.
 - C. The Code Enforcement Officer is authorized to approve minor modifications in the required improvements due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. Such approval shall be given in writing with a copy to the Planning Board. For major modifications such as changes of grade by more than 1%, relocation of rights-of-way, property boundaries, etc., the subdivider shall obtain permission to modify the plan from the Board. If there is a question as to whether or not a modification is minor or major the Planning Board shall decide.
 - D. The subdivider or builder shall be required to provide for the maintenance of all required improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the Town of China.
- 10.2 Violations and Enforcement.
- A. No plan of a subdivision of land within the Town of China which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with these regulations.
 - B. No person, firm, corporation or other legal entity may convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
 - C. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
 - D. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2,500 for each such conveyance, offering or agreement. The Town of China may institute proceedings to enjoin the violation of this section, and may collect attorney's fees and court costs if it is the prevailing party.

- E. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- F. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approval as provided in these regulations and recorded in the Registry of Deeds.
- G. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

SECTION 11. GENERAL STANDARDS

11.1 Conformance with Comprehensive Plan.

All proposed subdivisions shall be in conformity with the Comprehensive Plan of the Town of China and with the provisions of all pertinent state and local codes and ordinances.

11.2 Retention of Open Spaces and Natural or Historic Features.

- A. The Board may limit the clearing of trees to those areas designated on the plan. In addition the Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees larger than 24" in diameter at breast height, the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as much as possible.
- B. In major subdivisions the Board shall require the reservation of between five and ten percent of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision or to maintain the scenic or natural beauty of the area. The developer may instead make a payment in lieu of dedication into an open space or recreation land acquisition fund established by the Town of China.
- C. Reserved land within a subdivision may be restricted for use to the property owners in the subdivision. If reserved land is so restricted the cost of maintenance and development of such land shall be borne by the property owners of the subdivision. The manner of providing for the cost of development and/or maintenance of the reserved land shall be included in the instrument of conveyance to each property owner of the subdivision.
- D. Reserved land acceptable to the Board and subdivider may be dedicated to the Town of

China, subject to approval by the Board of Selectmen, as a condition of approval.

- E. Land reserved for open space purpose shall be of a character, configuration and location suitable for the particular use intended.
- F. Where land within the subdivision is not suitable or is insufficient in amount, or where the applicant prefers, a payment in lieu of dedication shall be calculated at the market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor, and deposited into a land acquisition or improvement fund established by the Town of China.
- G. If the proposed subdivision contains any identified historical or archaeological sites, or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare and irreplaceable natural areas, these areas shall be included in the open space, and suitably protected by appropriate covenants and management plans.
- H. Any public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space, with provisions made for continued public access.

11.3 Roads

- A. Applicability: This subsection 11.3 applies to (1) all new private roads, streets or portions thereof which provide access to, or are located within major residential and/or commercial subdivisions, and (2) all existing private roads, streets or portions thereof which provide access to, or are located within major residential and/or commercial subdivisions approved after the effective date of this subsection, but excluding roads or portions thereof located within a subdivision approved before the effective date of this subsection.
- B. Procedural Requirements:
 - 1. Copies of any new major subdivision plans containing private roads shall be forwarded to the municipal officers, the fire chief and the road commissioner for review.
 - 2. All roads must be shown on the subdivision plan submitted to the Planning Board for review.
 - 3. The developer of any approved subdivision containing private roads must record in the Kennebec County Registry of Deeds, contemporaneously with the approved subdivision plan, a road maintenance declaration approved by the Planning Board. The road maintenance declaration shall provide for (1) the maintenance and upkeep of the road(s) shown on the approved plan, (2) the incorporation by the developer under the Maine Nonprofit Corporation Act of a road association, (3) membership in the road association, (4) voting rights of lot owners, (5) road easement rights of lot owners, (6) assessments for expenses, (7) liens for expenses, (8) enforcement of association rights, (9)

subordination of the association liens to the rights of any mortgage holder and (10) any other matters relating to the road maintenance association.

4. If a subdivision borders an existing narrow road (not meeting the width requirements of the standards for roads in this ordinance), or if the China Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the subdivision plan shall designate reserved areas for widening or realigning the road which shall be marked “Reserved for Road Realignment (Widening) Purposes.” Land reserved for such purposes may not be included in computing lot area or setback requirements.
5. Approval by the Planning Board of the subdivision application shall not be deemed to constitute, or be evidence of, the acceptance by the Town of any roads located in said subdivision as Town roads. A private road may be accepted as a Town road only if the road meets the standards set forth in the Town’s Ordinance For the Acceptance Of Streets And Ways and is approved for acceptance by an affirmative vote at a duly held Town meeting. Any subdivision plan containing private roads must designate them as such and the following words must appear on the recorded plan:

Every road shown on this subdivision plan as a private road shall remain a private road, to be owned and maintained by the developer, landowners or road association, and shall not be maintained by the Town unless (1) the road was constructed in accordance with the then-current version of the Town of China “Ordinance for the Acceptance of Streets and Ways” and (2) the road is accepted as a town road by Town vote. Any road shown on this plan is subject to a Road Maintenance Declaration recorded in the Kennebec County Registry of Deeds.

C. Design Standards for Private Roads:

1. Road Specifications:

ROAD STANDARDS

ROAD DESIGN	PRIVATE SUBDIVISION ROAD SPECIFICATION
Right-of-Way Width	50 feet
Travelway Width	20 feet
Aggregate Sub-base Required (compacted)	18 inches compacted in 6-inch lifts
Aggregate Base Gravel	3 inches
Shoulder widths	4 feet
Maximum side slopes	3:1 down slope and back slope
Roadway Crown	½ inch per foot (gravel)
Maximum Grade	10%
Minimum Angles at Intersection	75 <u>degrees</u>

Minimum Center Line Radius for Curves	150 feet
Minimum Tangent Length between Curves	150 feet
Maximum side slopes	3 feet horizontal to one (1) foot vertical
Culverts	Driveway: 30 foot length (min.) 15 inch diameter (min) Roadway: 40 foot length (min.) 15 inch diameter (min.) Cross-culverts: 30 foot length (min) 15 inch diameter (min)

2. General Road Specifications: Pursuant to Section 11.3, the road specifications for subdivisions with more than 20 lots and for commercial subdivisions shall be identical to the road specifications for major residential and commercial subdivisions except that the width of the travel way of roads in subdivisions with more than 20 lots and for commercial subdivisions shall be paved with bituminous pavement to a depth of at least three (3) inches after compaction: a two (2) inch binder and a one (1) inch wearing course.

3. Specific Road Specifications:

- a. Specifications for aggregate subbase: Aggregate subbase must conform to MDOT 703.06 (as amended), Type 'D' Gravel, of hard durable particles free from vegetable matter, lumps or balls of clay and other deleterious substances. The gradation of that part that passes a 3 inch sieve shall meet the following requirements:

- (1) ¼ inch sieve: 25 to 70 percent passing by weight
- (2) No. 40 sieve: 0 to 30 percent passing by weight
- (3) No. 200 sieve: 0 to 70 percent passing by weight
- (4) Type 'D' aggregate shall not contain particles of rock which will not pass the 6-inch square mesh sieve.

- b. Specifications for aggregate base: a. Aggregate base must conform to MDOT 703.06 (as amended), Type 'A' Crushed Gravel, of hard durable particles free from vegetable matter, lumps or balls of clay and other deleterious substances. The gradation of that part that passes a 3 inch sieve shall meet the following requirements:

- (1) ½ inch sieve: 45 to 70 percent passing by weight
- (2) ¼ inch sieve: 30 to 55 percent passing by weight
- (3) No. 40 sieve: 0 to 20 percent passing by weight
- (4) No. 200 sieve: 0 to 5 percent passing by weight
- (5) Type 'A' aggregate shall not contain particles of rock which will not pass the 2-

inch square mesh sieve.

4. Centerline: The centerline of the road shall be the centerline of the road right-of-way.
5. Dead-end roads: Dead-end roads shall service no more than twenty (20) dwelling units. Dead-end roads shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: 65 feet to property lines and 50 feet to the edge of the nearest pavement. Dead-end roads may provide a permanent “T” or hammer head turn-around in lieu of a cul-de-sac. Such turn-arounds shall be a minimum of 35 feet in length and 20 feet in width. The right-of-way dimensions shall be 50 feet in length and 30 feet in width.
6. Through traffic: Roads in residential subdivisions shall be designed to discourage through traffic.
7. Grades, intersections and sight distances:
 - a. Grades of all roads shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
 - b. All changes in grades shall be connected by vertical curves providing for the minimum sight distances set forth herein.
 - c. Where new road intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below:

<u>Posted Speed Limit</u>	<u>Sight Distance (Each Direction)</u>
25 mph	250 feet
30 mph	300 feet
35 mph	350 feet
40 mph	400 feet
45 mph	450 feet
50 mph	500 feet
55 mph	550 feet

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

- d. Cross (four-cornered) road intersections shall be avoided insofar as possible, except as shown in the China Comprehensive Plan or at other important traffic intersections. A minimum distance of 200 feet shall be maintained between centerlines of side streets.
- D. Design Standards for Public Roads: The design standards for public roads are set forth in

the Town of China “Ordinance For The Acceptance Of Streets And Ways.”

E. Design Standards for roads in Mobile Home Parks: The design standards for roads in mobile home parks are set forth in China, Me., Land Development Code, Chap. 3, Section 11.9(K).

F. Construction Standards for Private Roads:

1. Preparation:

- a. Before any clearing has started for the proposed road, the centerline and side lines of the new road shall be staked or flagged at 50-foot intervals.
- b. Before the aggregate subbase is placed or, in the event engineering fabric is to be used as set forth below, before the aggregate base is placed, the entire proposed road shall be cleared of all stumps, roots, brush, ledge, large boulders and other objectionable material as determined by the Planning Board.
- c. All organic materials shall be removed to a depth of two (2) feet below the subgrade of the road. Rocks and boulders shall also be removed to a depth of two (2) feet below the subgrade of the road. On soils which have been identified as not suitable for roads, the subsoil shall be removed from the road site to a depth of two (2) feet below the subgrade and replaced with material meeting the specifications for aggregate subbase set forth in this ordinance. In lieu of removal of all organic material, engineering fabric (geotextile) may be used to stabilize the road base.

2. Construction:

- a. Side slopes shall be graded, limed, fertilized and seeded according to the specifications of the erosion and sedimentation control plan.
- b. Underground utilities shall be installed prior to road completion.
- c. Erosion control procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction and clean-up stages.
- d. Following road construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire road right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan and be suitably covered with fill and topsoil, limed, fertilized and seeded.

3. Inspection and certification:

- a. Certification: Before a lot may be sold, the applicant must submit to the Planning Board or its designee, the CEO, at the expense of the applicant, a written certification signed by a professional engineer registered in the State of Maine, certifying that the road(s), as built, from a public road outside the subdivision up to and including frontage along the lot that is to be sold, meets or exceeds the design and construction requirements of this ordinance.
 - b. Notification: At least ten (10) days prior to commencing construction of, or alteration of, any road in a subdivision, the applicant shall notify, in writing, the CEO and the licensed professional engineer designated to inspect the road, of the date when construction of the road is to begin.
 - c. Modification of Design Standards: If, at any time before or during the construction of the road, it is demonstrated to the satisfaction of the professional engineer that unforeseen conditions make it necessary or appropriate to modify the location or design of the road, the professional engineer may, upon application to and approval by the Planning Board, authorize modifications.
 - d. Non-compliance: If it is found upon inspection of the improvements that the private road is not being or has not been constructed in accordance with the approved plans and specifications, the licensed professional engineer shall so report to the Planning Board and their designee, the CEO. Until the non-conforming construction has been corrected and meets all the approved plans and specifications, no further lots may be sold in the subdivision. The CEO shall then notify the applicant and shall take all necessary enforcement steps pursuant to China, Me., Land Development Code, Chap. 10 (June 5, 1993). Should any performance guarantee require further action, said measures shall be taken to preserve the integrity of the road.
 - e. Inspection Fee: The Planning Board, with the approval of the Selectmen, may require the assessment of additional fees to cover the costs of construction inspection.
- G. Higher Design and Construction Standards: Nothing in this ordinance shall be construed to prevent the design and construction of roads which meet higher design or construction standards, use improved methods or higher quality materials than required by the above standards.

11.4 Land Not Suitable for Development.

The following lands shall not be included in the calculations of lot area for the purpose of meeting Minimum Lot Size requirements.

- A. Land which is situated below the normal high water mark of any body of water.

- B. Land which can be identified as inland wetlands on the basis of soils, vegetation, or other criteria including but not limited to swamps, marshes or bogs.
- C. Land which is part of a right-of-way, or easement, including utility easements.
- D. Land that has been created by filling or draining a pond or wetland.

11.5 Lots.

- A. All lots shall meet the minimum requirements of the Town of China Land Use Ordinance or other appropriate ordinance of the Town of China, unless otherwise stated herein.
- B. All lots shall be designed to provide adequate off-street parking based upon the type of development contemplated.
- C. When lots have frontage on two or more roads, the plan, and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.
- D. Wherever possible, side lot lines shall be perpendicular to the street.
- E. No further division of lots within an approved subdivision shall be allowed except as provided for in Section 9 of this ordinance.
- F. If a lot on one side of a stream, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, or road to meet minimum lot size.

11.6 Required Improvements.

A. Monuments.

1. Monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
2. Monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less.
3. Above monuments shall be a 5/8 inch or larger solid metal bar set permanently in the ground. A cap shall be permanently placed over the end of one metal bar located in one corner of each lot. Said cap will provide the registration number of the surveyor responsible for the project.
4. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation.

B. Water Supply.

1. If a central water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144 A.C.M.R. 231).

C. Sewage Disposal.

1. The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
2. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

D. Fire Protection.

If possible the subdivider shall construct dry hydrants for fire-fighting purposes. An easement shall be granted to the Town of China granting access to and maintenance of the dry hydrants where necessary.

E. Stormwater Runoff.

Stormwater runoff from improved areas, roads, etc., and from developed lots shall be controlled in such a way as to minimize the transportation of phosphorus into lakes or ponds or streams which empty into lakes or ponds within or without the Town of China.

11.7 Cluster Developments.

Cluster developments are prohibited.

11.8 Condominiums.

The form of ownership involving condominiums shall be allowed pursuant to 33 M.R.S.A. § 1601 et seq. subject to the provisions of the China Land Development Code, including but not limited to Chapter 2, Land Use Ordinance, Section 5, Land Use Standards; and Chapter 4, Phosphorus Control Ordinance.

11.9 Mobile Home Parks

The following provisions shall apply to all development proposals for new construction of mobile home parks and to any expansion of existing mobile home parks.

- A. Plan. An approved mobile home park plan shall be necessary under the terms of this Ordinance, prior to the establishment or expansion of a mobile home park, and shall consist of a site plan, including all attachments, signed by the Planning Board, and may include any conditions attached by the Planning Board. The establishment or expansion of a mobile home park shall be subject to the Town of China Subdivision Ordinance.

An approved mobile home park plan shall not exempt an applicant from meeting other applicable local, state, or federal requirements.

- B. Access. No mobile home park shall be developed unless adequate access for mobile homes and attached vehicles, emergency vehicles, fuel delivery, refuse collection and other vehicles is provided.
- C. Buffer Strips. A buffer strip, as determined by the Planning Board and in compliance with the Phosphorus Control Ordinance, shall be provided along all property boundaries that:
1. Abut residential land which has a gross density of less than half of that proposed in the park, or
 2. Abut residential land that is zoned at a density of less than half of that proposed in the park; and or
 3. Lie on the downslope side of the development.

Further, no structures, streets or utilities may be placed in the buffer strip except that they may cross a buffer strip to provide services to the park.

Within 25 feet of any property line and within the buffer strip, visual screening and/or landscaping shall be provided. The visual screening may consist of fences, landscaping (such as shrubs and trees) and/or natural existing vegetation. This screening shall effectively screen at least 80% of the homes from view from the adjacent property and shall be maintained throughout the life of the project.

D. Mobile Home Park Lots.

1. General. The bounds of each space shall be clearly marked with permanent corner pins for each lot, and the space shall be well surfaced or seeded to provide adequate drainage beneath and adjacent to any manufactured housing units parked thereon. Each space shall provide for -
 - a. continuing and potable supply of safe and sanitary water,
 - b. connection to an adequate sewage disposal system,
 - c. adequate electric power service and

- d. compliance with local, State and Federal laws pertaining to manufactured housing.

Each lot and unit shall be numbered with a sign that is visible day and night and legible from the road, and shall be easily accessible to emergency vehicles (permitting emergency vehicles to approach within 50 feet of the unit).

- 2. Grading. Every lot used for a mobile home park shall be properly graded and drained for disposal of surface and storm water.

3. Lot Size.

- a. Lots served by individual subsurface sewage disposal system shall be the larger of:
 - 20,000 square feet; or
 - 80,000 square feet if over an aquifer identified in the State of Maine Hydrogeological Map for Sand and Gravel Aquifers.

The minimum lot width shall be 100 feet

- b. Lots served by a central subsurface wastewater disposal system shall be the larger of:
 - 12,000 square feet; or
 - 80,000 square feet if over an aquifer identified in the State of Maine Hydrogeological Map for Sand and Gravel Aquifers.

The Minimum lot width shall be 75 feet

For parks with a lot size requirement of 12,000 square feet, the overall density of the mobile home park shall be no greater than one unit per 20,000 square feet of total park area.

- c. Overall Density. The overall density of the mobile home park shall be the combined area of its manufactured housing lots plus:
 - The area required for road rights-of-way;
 - The area required for buffer strips, if any.

4. Lot Setbacks.

- a. The following lot setbacks shall apply to all manufactured housing units and accessory buildings:

Front setback: 25 feet
Side setback: 10 feet
Rear setback: 15 feet

If a lot is on a public road, the setback shall conform with the residential setback requirements applicable to residential dwelling units.

- E. Safety Standards. The safety standards contained in Rule 02-385 Department of Professional and Financial Regulation, Manufactured Housing Board, Rules Pursuant to Establishing a Criteria as a Guide to Allow Park Operators to Institute a Safety Standard in Order to Resell a Mobile Home in a Manufactured Home Community, shall apply to ALL manufactured units to be located in a mobile home park.
- F. Manufactured Housing Storage. No unoccupied manufactured housing unit or trailer shall be stored or exhibited for sale for commercial purposes within a mobile home park.
- G. Motor Vehicle Parking Space. Not less than 300 square feet of parking space shall be provided in every mobile home park for each individual manufactured housing space in addition to manufactured housing space requirements and all such spaces shall have a well-drained stabilized or paved surface maintained in good repair.
- H. Service Area. Not less than 150 square feet of laundry drying space shall be provided in every mobile home park for each four manufactured housing spaces. Such laundry drying spaces shall not be located between the street and the mobile homes or between individual mobile homes, but rather shall be so located as to be as inconspicuous as possible from the adjacent numbered route or Town Road. Such spaces shall have a well-drained, stabilized or paved surface maintained in good repair. Such areas shall be surrounded by a sightly fence or hedge at least 4 feet in height.
- I. Playground Area. Not less than 150 square feet of play space for each individual manufactured housing space shall be provided and restricted in every mobile home park exclusively to playground and/or recreational use, and such spaces shall be protected from streets and parking areas and shall have a well-drained, stabilized or paved surface maintained in good repair. Adequate playground or recreational equipment shall be provided in this area.
- J. Utility Services. Every manufactured housing unit shall be provided with adequate hygiene and sanitation facilities. Water supply, water service, plumbing, sewage disposal and treatment, electric power service, bottled gas service, heating equipment and fuels, refuse and garbage storage and disposal, and insect and rodent control shall be provided in full conformity with all pertinent state and local health regulations.
- K. Road Design Standards.
 - 1. Private Roads. Privately owned roads within the mobile home park shall be designed by a Professional Engineer, registered in the State of Maine, and shall be built according to accepted engineering standards.
 - 2. Roads for Public Acceptance. Roads within mobile home parks which are to be offered

for acceptance to the community shall meet the minimum road standards of Town of China Ordinance For The Acceptance Of Streets And Ways.

3. Intersection with Public Roads. Mobile home park roads which intersect with public roads shall meet the following standards:
 - a. Angle of intersection. The desired angle of intersection shall be 90 degrees. The minimum angle of intersection shall be 75 degrees.
 - b. Grade. The maximum permissible grade within 75 feet of the intersection shall be 2%.
 - c. Minimum sight distance. The minimum sight distance shall be 10 times the posted speed limit on the existing road. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3 1/2 feet above the pavement and the height of object 4 1/4 feet. Where necessary, the park land bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility.
4. Access and Circulation.
 - a. The layout and general development plan for streets and driveways within the mobile home park, together with the location and dimensions of access junctions with existing public streets and rights-of-way shall be approved by the Planning Board.
 - b. A traffic impact analysis shall be required if the park will generate more than 500 trips/day.
 - c. For mobile home parks expected to generate 200 trips per day or more, there shall be at least two entrances from public streets or roads.
 - d. On-street parking shall be prohibited.
 - e. Curvilinear streets shall be utilized wherever possible. No street within the park shall be more than 200 feet without a curve or bend.
 - f. No manufactured housing lot may have vehicular access directly onto an arterial street.
5. Right-of-way and Pavement Width.
 - a. Two-way park roads shall have a minimum right-of-way of 23 feet and a minimum paved surface of 20 feet.
 - b. One-way streets shall have a minimum right-of-way of 18 feet and a minimum paved

surface of 14 feet.

- c. Cul-de-sac turnarounds shall have a minimum radius of 75 feet at the outer edge of the pavement.

L. Park Administration.

The owner or operator of a mobile home park shall be responsible for ensuring the maintenance of all structures and their sites. Park management shall conform to State laws.

Compliance with this Ordinance shall not exempt the park owner, developer, or manager from complying with other applicable local, state, and federal codes and regulations.

M. Conversion of Park.

No lot in a mobile home park may be sold or conveyed without the prior approval of the Planning Board, and any such lot sold or conveyed shall meet the lot size requirement for a site-built, single family dwelling.

11.10 Multi-Unit Dwellings.

The following provisions shall apply to the construction of any multi-unit dwelling, the conversion of any existing structure to a multi-unit dwelling, and the expansion of any existing structure to create a multi-unit dwelling.

- A. Shoreland Zone: multi-unit dwellings are prohibited in the shoreland zone.
- B. Road frontage: at least 200 feet on any town, county, state or private road.
- C. No building shall contain more than ten (10) dwelling units.
- D. Entrance to site: all developments containing fifteen or more dwelling units may be required by the Planning Board to have more than one street access (for emergency and safety purposes). No more than two accesses shall be allowed on any single street or roadway.
- E. Parking: the layout and design of all parking areas shall provide for at least two parking spaces per unit.
- F. Building exits: where the structure, with the proposed addition or alteration is two stories or more above the ground, it shall have two means of egress from the second floor; either two stairways inside the structure, or one inside stairway and a reasonable means of external fire escape which has been inspected and approved by the State Fire Marshall if required by Title 25, M.R.S.A., Section 2396.
- G. All multi-unit dwellings shall be connected to a common water supply and distribution

system, and a common sewage disposal system, at no expense to the Town.

- H. All multi-unit dwellings shall comply with State and local fire and safety regulations, including the fire prevention and fire protection provisions of the Maine Revised States Title 25, Part 6, and the State of Maine Rules Relating to Drinking Water, Department of Human Services, rule 10-144E, Chapter 231.

SECTION 12. PERFORMANCE GUARANTEES

12.1 Performance Guarantee.

Before Planning Board approval of the Final Plan, the subdivider shall file with the Planning Board a performance guarantee in an amount sufficient to defray all expenses of building the streets and all other required improvements shown on the Final Plan. This may be tendered in the form of:

- A. A certified check payable to the Town of China; or
- B. A performance bond running to the Town of China and issued by a surety company acceptable to the Planning Board of the Town of China.

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction, provisions for inspections of each phase of construction, provisions for release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

12.2 Conditional Agreement.

The Planning Board, at its discretion, may provide for the subdivider to enter into a binding agreement directly with the Town of China in lieu of the other financial performance guarantees. Such agreement shall provide for approval of the Final Plan with the following condition that the certification required by 11.3(F)(3)(1) be received and that no more than four lots may be built upon or sold until either:

- A. It is certified by a licensed professional engineer that all required improvements, except road improvements, have been installed in accordance with these regulations; or
- B. A performance guarantee, acceptable to the Planning Board, is submitted in an amount necessary to cover the completion of the required improvements at an amount prorated for the portions of the required improvements already installed.

12.3 Release of Guarantee.

Prior to the release of any part of the performance guarantee, a licensed professional engineer shall determine that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

12.4 Default.

If, upon inspection, the licensed professional engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Board of Selectmen, the Planning Board, the Code Enforcement Officer, and the subdivider or builder. It shall be the responsibility of the Board of Selectmen to take any steps necessary to preserve the Town's rights.

SECTION 13. WAIVERS

- 13.1 Where the Board finds that extraordinary difficulty may result from strict compliance with these regulations or where there are special circumstances of a particular plan, it may waive any of these regulations, except lot size, provided such waiver will not have the effect of nullifying the purpose of these regulations, the Comprehensive Plan, or any other ordinance.
- 13.2. In granting any waiver, the Board shall require such conditions as will, in their judgment, secure the objectives of the requirements so waived.
- 13.3. All waivers must be requested in writing by the applicant prior to acceptance of the application for subdivision.
- 13.4. No waiver shall be granted without a public hearing. Such public hearing shall be held within thirty days of receipt of a written request for waiver, or within another time limit mutually agreed to by the Board and the subdivider. Public notice shall be given for the hearing, and the abutting landowners to the proposed subdivision shall be notified by the Town Manager.
- 13.5 No waiver shall be granted unless all members of the Planning Board agree.

Town of China, Maine

Tobacco Free/Tobacco Litter Free Ordinance

Section 1.0 This ordinance shall be known as the “Town of China Tobacco Free/Tobacco Litter Free Ordinance” and will replace all previous tobacco free/tobacco litter free ordinances.

Section 2.0 Purpose

This ordinance is enacted to protect, preserve and promote the health, safety, welfare and quality of life for all people that use the Town of China Recreational Facilities, Parks, Trails, Municipal Facilities and any other town owned properties.

The Town of China, Maine is dedicated to providing a healthy and productive work environment. As required by law (22 M.R.S.A. § 1580-A), the town provides a smoke-free workplace. The Workplace Smoking Act of 1985 applies to all enclosed areas of business facilities in Maine where employees perform work and for which the employer is responsible. This ordinance also bans tobacco smoking and all other forms of tobacco use in all outdoor areas of the workplace property and all outdoor areas of recreational property of the Town of China, Maine at all times, 365 days per year, 24 hours a day. This ordinance applies to all employees, elected and appointed officials, customers, contractors, and visitors.

Section 3.0 Findings

“The scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke.” *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. Atlanta GA: U.S. DHHS CDC Office on Smoking and Health 2006.

Since the use of tobacco products is the single, greatest cause of premature death and disability in the United States and in Maine, this policy exceeds the requirements of Maine State law by banning the use of any and all tobacco products at all times and in all locations of property owned by the Town of China, Maine. The Select Board of the Town of China is dedicated to promoting health and wellness and recognizes that tobacco is an extremely addictive substance. This workplace will provide education on the impact of tobacco use with the purpose of raising awareness of the effects of tobacco use. This workplace will promote the use of all available resources, including the Maine Tobacco Help Line (1-800-207-1230) to assist those tobacco users who wish to cease their use of such products.

Section 4.0 The Order

The Town of China, Maine orders that the use of any tobacco or vaping product, including but not limited to cigarettes, cigars, vaping devices or non-FDA approved nicotine delivery devices i.e. electronic cigarettes, snuff, dip, and chewing tobacco, and tobacco litter on, in or at the China recreational facilities, parks and trails, more specifically the facilities located between 763 Lakeview Drive, otherwise known as China Primary School and 773 Lakeview Drive, otherwise known as China Middle School, on, in or at Thurston Park, located off from the Yorktown Road, and on, in or at the Town Forest located adjacent to

China Primary School, Bradley Island, Town Office facilities at 571 Lakeview Drive, Public Works facilities at 211 Alder Park Road, Transfer Station at 191 Alder Park Road and any other town owned properties, and any municipal vehicle, be prohibited.

Section 5.0 Enforcement

The local and state police and the county sheriff shall enforce this ordinance.

Section 6.0 Penalties

Civil Penalties: Any person in violation of any provision of this Ordinance shall be subject to a civil penalty and upon adjudication thereof shall be fined in an amount of not less than fifty (\$50) dollars nor more than two hundred fifty (\$250) dollars for each separate violation. The municipality may be awarded attorney's fees and costs incurred in enforcing the Ordinance.

Section 7.0 Severability

If any Ordinance in the Town of China now in effect or any future Ordinance is more stringent than this one, then that Ordinance shall be in force.

Section 8.0 Effective Date

This ordinance shall become effective upon vote of the legislative body.

Section 9.0 Amendments

This Ordinance may be amended by vote of the legislative body.

CHAPTER 6. WIRELESS TELECOMMUNICATIONS FACILITIES SITING ORDINANCE

SECTION 1. TITLE

This Ordinance shall be known and cited as the “Wireless Telecommunications Facilities Siting Ordinance” of China, Maine, (hereinafter referred to as the “ordinance”).

SECTION 2. AUTHORITY

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, title 30-A M.R.S.A. Section 4312 *et seq.*

SECTION 3. PURPOSE

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities in order to:

- Implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities;
- Establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities;
- Allow competition in telecommunications service;
- Encourage the provision of advanced telecommunications services to the largest number of businesses, institutions and residents of China;
- Permit and manage reasonable access to the public rights of way of China for telecommunications purposes on a competitively neutral basis;
- Ensure that all telecommunications carriers providing facilities or services within China comply with the ordinances of China;
- Ensure that China can continue to fairly and responsibly protect the public health, safety and welfare;
- Require the collocation of wireless telecommunications facilities, thus helping to minimize adverse visual impacts on the community;
- Enable China to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development;
- Further the goals and policies of the Comprehensive Plan, while promoting orderly development of the town with minimal impacts on existing uses; and
- Protect the scenic and visual character of the community in accordance with the Comprehensive Plan.

SECTION 4. APPLICABILITY

This local land use ordinance applies to all construction and expansion of wireless

telecommunications facilities, except as provided in section 4.1.

4.1. Exemptions

The following are exempt from the provisions of this ordinance:

- A. Emergency Wireless Telecommunications Facility. Temporary wireless communication facilities for emergency communications by public officials.
- B. Amateur (ham) radio stations. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).
- C. Parabolic antenna. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.
- D. Maintenance or repair. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
- E. Temporary wireless telecommunications facility. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) consecutive days.
- F. Antennas as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit.

SECTION 5. REVIEW AND APPROVAL AUTHORITY

5.1. Approval Required

No person shall construct or expand a wireless telecommunication facility without approval of the Code Enforcement Officer (CEO) or the Planning Board as follows:

- A. Expansion of an Existing Facility and collocation. Approval by the CEO is required for any expansion of an existing wireless telecommunications facility that increases the height of the facility by no more than twenty (20) feet; accessory use of an existing wireless telecommunications facility; or collocation on an existing wireless telecommunications facility.
- B. New Construction. Approval of the Planning Board is required for construction of a new wireless telecommunications facility; and any expansion of an existing wireless telecommunications facility that increases the height of the facility more than twenty (20) feet.

5.2. Approval Authority

In accordance with Section 5.1 above, the CEO or Planning Board shall review applications for wireless telecommunications facilities, and make written findings in accordance with Chapter 2, Section 6, Administration, of the China Land Development Ordinance on whether the proposed facility complies with this Ordinance.

SECTION 6. APPROVAL PROCESS

A public hearing shall be required, with all notification costs to be borne by the applicant. Furthermore, the applicant shall conduct a "balloon test" (i.e. floating a balloon above the proposed tower site at the height of the proposed tower that is visually recognizable from the ground). The balloon test shall be established at least forty-eight (48) hours prior to the date set for the public hearing, and the balloon test shall continue until the public hearing is closed, unless otherwise determined by the Planning Board.

6.1. Site Plan Review Application

Wireless telecommunications facilities, including expansions of existing facilities, shall comply with the application requirements of Chapter 2, Section 6, Administration, of the China Land Development Code and shall also include the following information.

1. Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
2. A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility shall comply with current FCC regulations.
3. A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities up to 195 feet in height above ground level, except antennas located on rooftops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the municipality. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.
4. A facility site plan:
 - a.) Prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the proposed facility complies with all applicable American National Standards Institute (ANSI) technical and structural codes; and
 - b.) A boundary survey for the project performed by a land surveyor licensed by the State of Maine.
5. A scenic assessment, consisting of the following:
 - a.) Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;
 - b.) A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and

- location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.
- c.) Photo simulations of the proposed facility taken from perspectives determined by the Planning Board. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
 - d.) A narrative discussing:
 - i.) the extent to which the proposed facility would be visible from or within a designated scenic resource,
 - ii.) the tree line elevation of vegetation within 100 feet of the facility, and
 - iii.) the distance to the proposed facility from the designated scenic resources noted viewpoints.
6. A written description of how the proposed facility fits into the applicant's telecommunications network, including a definition of the target market area. This submission requirement does not require disclosure of confidential business information.
7. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:
- a.) Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements,
 - b.) Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements,
 - c.) Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
 - i.) Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
 - ii.) The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
 - iii.) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
 - d.) For facilities existing prior to the effective date of this ordinance/Site Plan Review and Subdivision Ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding

the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this ordinance Site Plan Review and Subdivision Ordinance or amendment thereto;

- e.) Evidence that the applicant has made diligent good faith efforts to negotiate collocation on an existing facility, building, or structure, and has been denied access;
- 8. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800) or listed in the current Town of China comprehensive plan.
 - 9. A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:
 - a.) respond in a timely, comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b.) negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
 - c.) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for collocation;
 - d.) require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
 - 10. A form of acceptable surety approved by the Board of Selectmen to pay for the costs of removing the facility if it is abandoned.

6.3. Submission Waiver

The CEO or Planning Board, as appropriate, may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the CEO or Planning Board finds in writing in accordance with Chapter 2, Section 6, Administration, of the China Land Development Code that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.

6.4. Fees

A. CEO Application Fee

An application for CEO approval shall include payment of an application fee as designated by the Board of Selectmen. The application shall not be considered complete until this fee is paid. The applicant is entitled to a refund of the application fee if the application is withdrawn within fifteen (15) days of date of filing, less all expenses incurred by the Town of China to review the application.

B. Planning Board Application Fee

An application for Planning Board approval shall include payment of an application fee as designated by the Board of Selectmen. The application shall not be considered complete until this fee is paid. An applicant is entitled to a refund of the application portion of fee if the application is withdrawn within fifteen (15) days of date of filing, less all expenses incurred by the town of China to review the application.

An applicant for approval by the Planning Board shall pay all reasonable and customary fees incurred by the municipality that are necessary to review the application. All fees shall be paid in full prior to the start of construction.

That portion of the review fee not used shall be returned to the applicant within fourteen (14) days of the Planning Board's decision.

SECTION 7. STANDARDS OF REVIEW

To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section.

7.1. CEO Approval Standards

An application for approval by the CEO under Section 5.1(A) must meet the following standards.

- A. The proposed facility is an expansion, accessory use, or collocation to a structure existing at the time the application is submitted in accordance with Section 4, Uses, of the China Land Development Code.
- B. The applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure.
- C. The proposed facility increases the height of the existing structure by no more than twenty (20) feet.
- D. The proposed facility will be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. The proposed facility shall not display any permanent or temporary signs, writing, or symbols, or any graphic representation, except those needed to identify the property and the owner, and to warn of any danger, and placed no higher than six (6) feet above finished grade level.
- E. The proposed facility shall have no unreasonable adverse impact upon districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed in the National Register of Historic

Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800) or the current Town of China Comprehensive Plan.

7.2 Planning Board Approval Standards

An application for approval by the Planning Board under Section 5.1(B) must meet the following standards.

- A. **Priority of Locations.** New wireless telecommunications facilities must be located according to the priorities below. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility.
- B. **Siting on Municipal Property.** If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility on municipal property, the applicant must show the following:
 - 1.) The proposed location complies with applicable municipal policies and ordinances.
 - 2.) The proposed facility will not interfere with the intended purpose of the property.
 - 3.) The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.
- C. **Design for Collocation.** A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future collocation of at least three additional wireless telecommunications facilities or providers. However, the Planning Board may waive or modify this standard where the district height limitation effectively prevents future collocation.
- D. **Height.** The maximum height of new or expanded wireless telecommunications facility shall be 195 feet. The facility shall be designed to collapse in a manner that does not harm other property.
- E. **Setbacks.** A new or expanded wireless telecommunications facility must comply with the minimum set back requirements for the respective district, or be set back one hundred five percent (105%) of its height from all property lines and roads, whichever is greater. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. The following exemptions apply:
 - 1.) In all town districts, the setback may be reduced by the Planning Board upon a showing by the applicant that the facility is designed to collapse within the confinements of the facility compound.
- F. **Landscaping.** A new wireless telecommunications facility and related equipment must be screened with a planted buffer to maintain aesthetic value for abutting properties, the limits and dimensions of which shall be determined by the permitting authority.
- G. **Driveways.** A new wireless telecommunications facility should use existing entrances and driveways, if available, unless the applicant can demonstrate that a new entrance and

driveway will result in less visual traffic and environmental impact. New driveways to serve the facility shall not exceed twelve (12) feet in width. A gravel or crushed stone surface is minimally required.

- H. Fencing. A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.
- I. Lighting. A new wireless telecommunications facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site.
- J. Color and Materials. A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used. The facility shall not display any permanent or temporary signs, writing, or symbols, or any graphic representation, except those needed to identify the property and the owner, and to warn of any danger, and placed no higher than six (6) feet above finished grade level.
- K. Structural Standards. A new wireless telecommunications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures.” The monopole structure is the preferred structure and other options would be left to the discretion of the Planning Board.
- L. Visual Impact. The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the Town, as identified either in the municipality adopted comprehensive plan, or by a State or federal agency.
 - 1.) In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors:
 - a.) The extent to which the proposed wireless telecommunications facility is visible above the tree line, from the viewpoint(s) of the impacted designated scenic resource;
 - b.) The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;
 - c.) The extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s);
 - d.) The amount of vegetative screening;
 - e.) The distance of the proposed facility from the viewpoint and the facility’s location within the designated scenic resource; and

- f.) The presence of reasonable alternatives that allow the facility to function consistently with its purpose.
- M. Noise. During construction, repair, or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 8 a.m. and 9 p.m. shall not exceed 85d.b. Except during construction, repair, or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 8 a.m. and 9 p.m. are exempt from existing noise standards.
- N. Historic & Archaeological Properties. The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure which is currently listed on the National Register of Historic Places or the current Town of China Comprehensive Plan.

7.3 Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the CEO or Planning Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

- 1.) The owner of the wireless telecommunications facility and his or her successors and assigns agree to:
 - a.) Respond in a timely, comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b.) Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
 - c.) Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for collocation.
 - d.) Require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design. Construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.
- 2.) Upon request by the municipality, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.
- 3.) The owner of the facility shall maintain the facility in good condition. Such maintenance

shall include, but shall not be limited to, painting, ensuring the structural integrity of the mount and security barrier, maintenance of buffer areas, landscaping, and camouflage materials, if any.

- 4.) The owner of the wireless telecommunications facility shall provide the Town with a structural evaluation prepared by a professional civil engineer licensed in Maine every five (5) years from the date of the Planning Board's approval of the site plan.
- 5.) The Planning Board shall determine the form and amount of security, to be approved by the Selectmen pursuant to 6.1.10, representing the cost for removal and disposal of abandoned wireless telecommunications facilities in the event that a facility is abandoned and its owner is unwilling or unable to remove the facility in accordance with Section 9 of this document. The amount of the security shall be based upon the removal cost plus fifteen per cent (15%), provided by the applicant and certified by a Maine licensed professional engineer. The owner of the facility shall provide the Planning Board with revised removal cost estimates and amended bond amounts, every five (5) years from the date of the Planning Board's approval of the site plan.

SECTION 8. AMENDMENT TO AN APPROVED APPLICATION

Any changes to an approved application must be approved by the CEO or the Planning Board, in accordance with Section 5.

SECTION 9. ABANDONMENT

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation according to a surety bond issued at the time of permitting.

If a surety has been given to the municipality for removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

SECTION 10. APPEALS

Any person aggrieved by a decision of the CEO or the Planning Board under this ordinance may appeal the decision to the Board of Appeals, as provided by Chapter 9 of the China Land Development Code. Written notice of an appeal must be filed with the Board of Appeals within thirty (30) days of the decision. The notice of appeal shall clearly state the reasons for the appeal.

SECTION 11. ADMINISTRATION, ENFORCEMENT AND PENALTIES

Administration, enforcement, and penalties under this ordinance shall be consistent with Chapter 10 of the China Land Development Code.

SECTION 12. CONFLICT AND SEVERABILITY

12.1 Conflicts with other Ordinances

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply. Consult Chapter 1, Purpose and Administration, of the China Land Development Code for guidance.

12.2 Severability

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

SECTION 13. EFFECTIVE DATE

This ordinance becomes effective on February 3, 2009.