

**LD 2003 Proposed Amendments
China Land Development Code
Chapters 2, 3 and 11**

CHAPTER 2 LAND USE ORDINANCE

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

Subsection 2.D.I is amended to read as follows:

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. See also Section 5.A.I. *(This refers to the affordable housing dimensional requirements required by LD 2003, which is otherwise known as “An Act To Implement the Recommendations of the Commission To Increase Housing Opportunities in Maine by Studying Zoning and Land Use Restrictions”.)*

SECTION 3. CRITERIA FOR ESTABLISHING DISTRICTS

Section 3.D is amended, Section 3.E is created, and Section 3.F is renumbered and amended as follows:

D. Rural District (RD)

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

E. South China Development District

The purpose of the South China Development District is to provide for the siting and construction of affordable housing, and resources and services in a clustered (higher density) land area. Other land areas may be so designated to accommodate future need. See Appendix A for the legal description of the District. *(The 2020 comprehensive plan identified a future growth area for additional housing and development in South China. The proposed South China Development District covers the same area as was recommended in the 2020 Comprehensive Plan.)*

F. Land Use District Map

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

SECTION 4. USES

The Land Use Table is amended to combine the proposed South China Development District (SCDD) with the Rural District Column and add Accessory Dwelling Units to Use 15 as follows:

(The Land Use District Table is proposed to be amended to include the new SCDD. The permitted uses will be the same as in the Rural District but greater housing densities will be permitted as required by LD 2003, which also requires that accessory dwelling units, sometimes called “in-law apartments”, must be allowed anywhere residential uses are permitted. For China this includes the Shoreland, Rural and South China Development Districts.)

LAND USE DISTRICTS	RPD	SD	RD/SCDD	SPD
15. Principal uses, structures or additions. *Section 5 (A)				
<u>One and Two-unit dwellings and Accessory Dwelling Units</u>	No	CEO	CEO	No
Multi-unit dwelling	No	No	PB/SO	No

SECTION 5. LAND USE STANDARDS

The following subsections of Chapter 5 are amended or created and are read as follows:

A. Dimensional Requirements for Principal Structures

I. Resource Protection, Stream Protection, and Shoreland District:

- i. In the Shoreland District up to two dwelling units per lot are allowed if that lot does not contain an existing dwelling unit. If a lot contains one existing dwelling unit, up to two dwelling units are allowed as follows: one additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each. 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. *(The underlined provisions are required by LD 2003.)*

II. Rural District and South China Development District

- a. Minimum lot area: 40,000 square feet.
 - i. Mobile home parks are permitted to have smaller lot sizes as indicated in Chapter 3, Section 11.9(D)(3) of the China Land Use Ordinance when located outside of the Shoreland Zone.

- ii. Two-unit dwellings and multi-unit dwellings shall have an additional 20,000 square feet for each unit more than one when located outside the Shoreland Zone.
- iii. If a lot contains an existing dwelling unit, up to two dwelling units are allowed as follows: one additional dwelling unit within or attached to an existing structure or one additional detached dwelling unit, or one of each. *(Self-explanatory; required by LD 2003.)*
- iv. In the South China Development District or in an area served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system, up to four dwelling units per lot shall be allowed if the lot does not contain an existing dwelling unit. *(Self-explanatory; required by LD 2003.)*
- v. Inside that portion of the South China Development District within the Shoreland Zone the minimum lot size and frontage shall be increased in proportion to the number of principal structures or dwelling units, or a combination thereof, on the lot so the average density of the use of the lot will be no greater than it would be if these structures or units or uses were to be placed on the individual lots. Land beneath roads serving more than two lots shall not be included toward calculating minimum lot area. *(The proposed growth area in the 2020 Comprehensive Plan may have inadvertently included some areas in the Shoreland Zone. In these instances, the Shoreland Zone dimensional requirements will apply.)*
- e. Maximum lot coverage: structures of all types shall not cover more than 20% of any lot in the Rural District and 40% in the South China Development District. (Impervious surfaces, driveways, parking areas, etc. do not apply to lot coverage.) *(This provision allows a higher density of development in the SCDD.)*

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

- III. South China Development District: Structures of all types shall not cover more than 40% of any lot. Non-vegetated surfaces shall not exceed a total of 20% percent of the portion of the lot located within the Shoreland Zone. For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. *(This provision allows a higher density of development in the SCDD.)*

Chapter 5 Section X is created as follows:

X. Accessory Dwelling Units *(Under LD 2003, municipalities are required to permit accessory dwelling units in all areas where residential dwelling units are allowed.)*

I. The purpose of accessory dwelling units is to allow single-family house owners to create a living space for a relative, such as a grandparent, or to rent to another household, thus helping to enable the single-family house owner to remain in her/his home or to create additional affordable dwelling units in the community. The house owner may live in the accessory dwelling unit and provide and/or rent the main house to a relative or another household. The single-family house owner may also use an accessory dwelling unit to rent for additional income. *(If the provisions for an accessory dwelling unit are complied with, no additional lot area is required. Otherwise, the property would be treated as a duplex and additional minimum lot area would be necessary. Importantly, if at some point the property owner no longer lives in either dwelling, the property would be considered non-conforming unless there is sufficient lot area for two dwellings.)*

II. **Requirements:** *(These requirements are a combination of LD 2003 requirements and good community planning practice for accessory dwelling units.)*

- a. The house owner must reside in either the main house or the accessory dwelling unit.
- b. An accessory dwelling unit may be created in one of the following ways:
 - i. by using space within an existing detached single-family dwelling;
 - ii. by building an addition onto an existing detached single-family dwelling such that the addition is made part of the principal dwelling;
 - iii. by using space within an existing or proposed accessory structure (to a detached single-family structure) that is on the same lot as the single-family dwelling;
 - iv. new construction as part of a new single-family house.
- c. For the purposes of this section, the accessory dwelling unit shall not be considered to be a second dwelling unit for determining the required minimum lot area.
- d. Accessory dwelling units shall be part of, or accessory to, a single-family

house and cannot be sold as a condominium dwelling.

- e. If the single-family dwelling unit is already connected to a public sewer system, both the single-family dwelling and the new accessory dwelling unit must be connected to the public sewer system. If the lot is served by on-site subsurface sewage disposal, the owner must demonstrate to the Town Plumbing Inspector that the use conforms to the State of Maine Minimum Lot Size law and that the sewage disposal system(s) for both the single-family dwelling and the accessory dwelling unit complies with the Maine Subsurface Wastewater Disposal rules. If an accessory dwelling unit is connected to a well, the owner must demonstrate proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.
 - f. In all cases, the accessory dwelling unit shall be no less than 190 square feet and not more than 650 square feet.
 - g. Any exterior alteration of the single-family dwelling or accessory buildings or construction of an accessory building shall preserve the single-family appearance, architectural style, and character of the original structure and shall be in harmony with the general appearance of the neighborhood. Any alteration shall preserve the front entrance of the original structure to preserve the single-family character. A separate entrance for the accessory dwelling unit may be created but shall be clearly secondary to the main entrance, such as but not limited to an entrance that is setback further from the road than the primary entrance.
- III. An accessory dwelling unit is exempt from any density requirements or calculations related to the area in which the accessory dwelling unit is constructed.
- IV. For an accessory dwelling unit located within the same structure as a single-family dwelling unit or attached to or sharing a wall with a single-family dwelling unit, the setback requirements and dimensional requirements are the same as the setback requirements and dimensional requirements of the single-family dwelling unit. For an accessory dwelling unit permitted in an existing accessory structure, the minimum setback requirements for such a structure shall apply.
- V. An accessory dwelling unit may not be subject to any additional parking requirements beyond the parking requirements of the single-family dwelling unit on the lot where the accessory dwelling unit is located.
- VI. An accessory dwelling unit that was not built with municipal approval is allowed if the accessory dwelling unit otherwise meets the requirements for accessory dwelling units under this section and local, state and federal law. (LD 2003 requirement.)

Chapter 5 Section B is amended as follows:

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 Ordinance ~~code~~ by the Planning Board, Appeals Board, Code Enforcement Officer and Local Plumbing Inspector reflect the provisions of this Ordinance ~~code~~. Those permits, authorizations and decisions resulting from the administration of this Ordinance ~~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. *(Editorial clarifications only.)*

IV. Procedure for Administering Permits:

- b. Will not result in pollution of groundwater or surface waters, erosion of soil, or sedimentation to surface waters ~~water pollution, erosion, or sedimentation to surface waters;~~ *(Updated environmental standard.)*

CHAPTER 11 DEFINITIONS

Chapter 11 is amended to include the following definitions:

ACCESSORY DWELLING UNIT: A small, self-contained dwelling, either within, attached or detached, which is part of an existing single family owner-occupied home on the same lot and which is secondary to the single-family home. Both units shall be occupied as primary residences, and neither unit may be rented for less than a monthly basis.

AFFORDABLE HOUSING DEVELOPMENT: *(From LD 2003)*

A. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and

B. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs.

CHAPTER 3 SUBDIVISION ORDINANCE

Chapter 3 is amended to include the following new section:

11.10 Affordable Housing Developments *(The following provisions are mandated by LD 2003.)*

A housing development that is an affordable housing development as defined in Chapter 11 shall be subject to the following requirements.

- A. An affordable housing development that is located in the South China Development District or is served by a public, special district or other centrally managed water system and a public, special district or other comparable sewer system shall be allowed to have a dwelling unit density of at least 2.5 (two and one-half) times the base density that is otherwise allowed and may not be required to provide more than two off-street parking spaces for every three units. The development must comply with minimum lot size requirements in accordance with Title 12, chapter 423-A, as applicable.
- B. Before granting final approval of an affordable housing development, including but not limited to issuing an occupancy permit, the Town shall require that the owner of the affordable housing development has executed a restrictive covenant, recorded in the registry of deeds, for the benefit of and enforceable by a party acceptable to the Town, to ensure that for at least 30 years after completion of construction:
 - i. For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy;
 - ii. For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.
- C. The owner of an affordable housing development shall provide written verification that each unit of the housing development is connected to adequate water and wastewater services before the development is certified for occupancy. Written verification under this subsection must include:

- i. If a housing unit is connected to a public, special district or other comparable sewer system, proof of adequate service to support any additional flow created by the unit and proof of payment for the connection to the sewer system;
- ii. If a housing unit is connected to a septic system, proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector under 30-A M.R.S. Section 4221. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with subsurface wastewater disposal rules adopted under Title 22, section 42;
- iii. If a housing unit is connected to a public, special district or other centrally managed water system, proof of adequate service to support any additional flow created by the unit, proof of payment for the connection and the volume and supply of water required for the unit; and
- iv. If a housing unit is connected to a well, proof of access to potable water. Any tests of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.

Chapter 2 Appendix A is created as follows:

Appendix A

(Should there be a conflict between the legal description of a zoning district and the boundaries shown graphically on a plan, the legal description shall prevail.)

South China Development District

Beginning at the intersection of Lakeview Drive and Jones Road; thence southerly along Jones Road to its intersection with Village Street; thence southwesterly along Village Street to the southerly bound of Map 17 Lot 058; thence westerly along the southerly bound of Map 17 Lot 058 to the easterly bound of Map 16 Lot 021; thence southerly along the easterly bound of Map 16 lot 021 to the northerly bound of Map 16 Lot 020; thence westerly along the northerly bound of Map 16 Lot 20 to the northwesterly corner of Map 16 Lot 027-D; thence southwesterly to a point on the easterly side of the Route 32 right-of-way 280 feet south of the southwesterly corner of Map 16 Lot 027-C; thence westerly along the northerly bound of Map 16 Lot 028-A to the northwesterly corner of Map 11 Lot 007; thence southerly to southeasterly corner of Map 16 Lot 025-D; thence westerly to the town line; thence southerly 3,375 feet along the town line to a point; thence easterly to a point on the westerly bound of Map 11 Lot 008, 400 feet from the shore of Three Mile Pond; thence easterly to the northeasterly corner of Map 11 Lot 020; thence easterly to an interior corner of Map 11 Lot 040, 530 feet south of Route 3; thence along the southerly bound of Map 11 Lot 040 to Park Lane; thence southeasterly along Park Lane to the southwesterly corner of Map 11 Lot 062; thence easterly to the southeasterly corner of Map 11 Lot 062 to the thread of a stream; thence along the thread of said stream to a point on the westerly bound of Map 11 Lot 069-B, 890 feet north of the southerly bound of Map 11 Lot 069-B; thence easterly to the intersection of Pride Rock Road and the southerly corner of Map 11 Lot 071; thence 520 feet northerly along Pride Rock Road to a stream; thence easterly along the thread of said stream to a point on the southerly bound of Map 16 Lot 002, 500 east of the southwesterly corner of said lot; thence northeasterly to the southwestern corner of Map 17 Lot 17; thence southeasterly to a point on the northerly bound of Map 17 Lot 011, 1,360 feet from Windsor Road; thence southerly to a point on the northerly bound of Map 12 Lot 071, 225 feet from the northwesterly corner of Map 12 Lot 70; thence easterly to the northwesterly corner of Map 12, Lot 070-A; thence southerly to the southwesterly corner of Map 12 Lot 070; thence easterly to the southeasterly corner of Map 12 Lot 069; thence northerly along Windsor Road to the northwesterly corner of Map 12 Lot 063; thence easterly to the southeasterly corner of Map 17 Lot 009-D; thence northerly to the northeasterly corner of Map 17 Lot 023; thence northerly to the northwesterly corner of Map 17 Lot 023-B; thence northerly to a point on the centerline of discontinued portion of Tobey Road, 380 feet east of the end of the public portion of Tobey Road; thence westerly 350 feet along the discontinued portion of Tobey Road to a stream; thence northerly along the thread of said stream to a point on the southerly bound of Map 23 Lot 124, 560 feet east of Route 3; thence easterly along the southerly bound of said lot to a point 1,220 feet east of Route 3; thence northeasterly to the southeasterly corner of Map 23 Lot 119; thence to a point on the southerly bound of Map 28 Lot 1, 50 feet east of the Tower Access Road; thence northerly to a point on the northerly bound of Map 22 Lot 116, 3,090 feet east of Lakeview Drive; thence westerly 900 feet along the northerly bound of said lot and then east to the point of

beginning; excepting any portion of the above-described South China Development District within the Shoreland District, Stream Protection District or the Resource Protection Districts.