APPENDIX F – SAMPLE FORMS

F-1 Model Shoreland Zoning Permit Application Forms

F-2 Sample Building Application and Permit Forms

F-3 Sample Floodplain Management Permit Forms

F-4 Sample "Statement of Evidence of Violation"

F-5 Miscellaneous Enforcement Forms and Letters, Consent Agreements, Land Use Complaint

F-6 Administrative Inspection Warrants – Forms and Court Rule 80K

F-7 Citation form Used by Auburn and Related Citation Ordinance

F-8 Sample Consent Agreement Forms

F-9 Curtilage Scenarios

F-10 Sample "Stop Work Notice"

F-11 Sample "No Action" letter used by Auburn

F-12 Maine Townsman legal note "Notice of Code Violations" (June 1992)

F-13 Table Showing Degrees of Relationship

F-14 "Salesmanship: The Art of Gaining Code Compliance", from The Building Official and Code Administrator (July/August 1992)

F-15 Maine Townsman legal note "Sample Permit Wording"

DECD/OCP 1/91
NOTE: THIS SAMPLE PERMIT APPLICATION FORM SHOULD BE MODIFIED TO COMPLIMENT YOUR LOCAL SHORELAND ZONING ORDINANCE

FOR OFFICE USE ONLY:
PERMIT NO.: _____
ISSUE DATE: _____
FEE AMOUNT: _____

TOWN OF_____
SHORELAND ZONING PERMIT APPLICATION

GENERAL INFORMATION

1. APPLICANT	2. APPLICANT'S ADDRESS	3. APPLICANT'S TEL. #
4. PROPERTY OWNER	5. OWNER'S ADDRESS	6. OWNER'S TEL. #
7. CONTRACTOR	8. CONTRACTOR'S ADDRESS	9. CONTRACTOR'S TEL. #

10. LOCATION/ADDRESS OF PROPERTY	11. TAX MAP/PAGE & LOT #	12. ZONING DISTRICT

13. DESCRIPTION OF PROPERTY INCLUDING A DESCRIPTION OF ALL PROPOSED CONSTRUCTION, (E.G. LAND CLEARING, ROAD BUILDING, SEPTIC SYSTEMS, AND WELLS - PLEASE NOTE THAT A SITE PLAN SKETCH IS REQUIRED ON PAGE 3).

14. PROPOSED USE OF PROJECT	15. ESTIMATED COST OF CONSTRUCTION

SHORELAND AND PROPERTY INFORMATION

16. LOT AREA	17. FRONTAGE ON ROAD (FT.)
18. SO. FT. OF LOT TO BE COVERED BY NON-VEGETATED SURFACES	19. ELEVATION ABOVE 100 YR. FLOOD
20. FRONTAGE ON WATERBODY (FT.)	21. HEIGHT OF PROPOSED STRUCTURE
22. EXISTING USE OF PROPERTY	23. PROPOSED USE OF PROPERTY

Note: Questions 24 & 25 apply only to expansions of portions of existing structures which are less than the required setback.

24. A) SO. FT. OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89: _____	25. A) CU. FT. OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK AS OF 1/1/89: _____
B) SQ.FT. OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 11/11/89 TO PRESENT: _____	B) CU.FT. OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK FROM 1/11/89 TO PRESENT: _____
C) SQ. FT. OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK: _____	C) CU. FT. OF PROPOSED EXPANSION OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK: _____
D) % INCREASE OF SO. FT. OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 1/11/89: (% INCREASE = $\frac{B+C}{A}$ x 100) _____	D) % INCREASE OF CU. FT. OF ACTUAL AND PROPOSED EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK SINCE 11/11/89: (%INCREASE = $\frac{R + C}{A}$ X 100) _____

NOTE: IT IS IMPERATIVE THAT EACH MUNICIPALITY DEFINE WHAT CONSTITUTES A STRUCTURE, FLOOR AREA, AND VOLUME AND APPLY THOSE DEFINITIONS UNIFORMLY WHEN CALCULATING EXISTING AND PROPOSED SO. FT. AND CU. FT.

SITE PLAN

PLEASE INCLUDE: LOT LINES; AREA TO BE CLEARED OF TREES AND OTHER VEGETATION; THE EXACT POSITION OF PROPOSED STRUCTURES, INCLUDING DECKS, PORCHES, AND OUT BUILDINGS WITH ACCURATE SETBACK DISTANCES FROM THE SHORELINE, SIDE AND REAR PROPERTY LINES; THE LOCATION OF PROPOSED WELLS, SEPTIC SYSTEMS, AND DRIVEWAYS; AND AREAS AND AMOUNTS TO BE FILLED OR GRADED. IF THE PROPOSAL IS FOR THE EXPANSION OF AN EXISTING STRUCTURE, PLEASE DISTINGUISH BETWEEN THE EXISTING STRUCTURE AND THE PROPOSED EXPANSION.

NOTE: FOR ALL PROJECTS INVOLVING FILLING, GRADING, OR OTHER SOIL DISTURBANCE YOU MUST PROVIDE A SOIL EROSION CONTROL PLAN DESCRIBING THE MEASURES TO BE TAKEN TO STABILIZE DISTURBED AREAS BEFORE, DURING AND AFTER CONSTRUCTION (See attached guidelines)

SCALE: _____=_____FT.

FRONT OR REAR ELEVATION

SIDE ELEVATION

DRAW A SIMPLE SKETCH SHOWING BOTH THE EXISTING
AND PROPOSED STRUCTURES WITH DIMENSIONS

ADDITIONAL PERMITS, APPROVALS, AND/OR REVIEWS REQUIRED

CHECK IF REQUIRED:

¨ PLANNING BOARD REVIEWAPPROVAL
(e.g. Subdivision, Site Plan Review)

¨ BOARD OF-APPEALS REVIEWAPPROVAL

¨ FLOOD HAZARD DEVELOPMENT PERMIT

¨ EXTERIOR PLUMBING PERMIT
(Approved THE 200 Application Form)

¨ INTERIOR PLUMBING PERMIT

¨ DEP PERMIT (Site Location,
Natural Resources Protection Act)

¨ ARMY CORPS OF ENGINEERS PERMIT
(e.g. Sec. 404 of Clean Waters Act)

OTHERS:

¨ _____

¨ _____

¨ _____

¨ _____

NOTE: APPLICANT IS ADVISED TO CONSULT WITH THE CODE ENFORCEMENT OFFICER AND APPROPRIATE STATE AND FEDERAL AGENCIES TO DETERMINE WHETHER ADDITIONAL PERMITS, APPROVALS, AND REVIEWS ARE REQUIRED

I CERTIFY THAT ALL INFORMATION GIVEN IN THIS APPLICATION IS ACCURATE. ALL PROPOSED USES SHALL BE IN CONFORMANCE WITH THIS APPLICATION AND THE_____SHORELAND ZONING ORDINANCE. I AGREE TO FUTURE INSPECTIONS BY THE CODE ENFORCEMENT OFFICER AT REASONABLE HOURS.

_____ _____
APPLICANT'S SIGNATURE DATE

_____ _____
AGENTS SIGNATURE (if applicable) DATE

APPROVAL OR DENIAL OF APPLICATION

(For Office Use Only)

_____MAP _____ LOT #

THIS APPLICATION IS: _____APPROVED _____DENIED

IF DENIED, REASON FOR DENIAL:

_____
_____
_____
_____

IF APPROVED, THE FOLLOWING CONDITIONS ARE PRESCRIBED:

_____
_____
_____
_____
_____

NOTE: IN APPROVING A SHORELAND ZONING PERMIT, THE PROPOSED USE SHALL COMPLY WITH THE PURPOSES AND REQUIREMENTS OF THE SHORELAND ZONING ORDINANCE FOR THE TOWN OF_____.

_____ _____

CODE ENFORCEMENT OFFICER DATE

INSPECTION CHECK LIST
¨ Prior to Clearing and Excavation
¨ Prior to Foundation Pour
¨ Prior to Final Landscaping
¨ Prior to Occupancy

PERMIT #
FEE AMOUNT

NOTE: THIS CHECKLIST IS INTENDED TO ASSIST THE CEO IN TRACKING A SHORELAND ZONING PERMIT THROUGH THE REVIEW PROCESS

SHORELAND ZONING PERMIT CHECKLIST

CHECKOFF FOR ALL STRUCTURES:

- ¨ COMPLETE SHORELAND ZONING PERMIT APPLICATION
- ¨ PAY APPROPRIATE FEE
- ¨ LOT AREA
- ¨ % OF LOT COVERED BY NON-VEGETATED SURFACES
- ¨ HEIGHT OF STRUCTURE
- ¨ SETBACK FROM HIGH WATER MARK
- ¨ ELEVATION SETBACK FROM SIDE AND REAR LOT LINES
- ¨ % INCREASE OF EXPANSIONS OF PORTION OF STRUCTURE WHICH IS LESS THAN REQUIRED SETBACK
- ¨ COPY OF INTERIOR AND EXTERIOR PLUMBING PERMITS
- ¨ COPY OF DEED
- ¨ ELEVATION OF LOWEST FLOOR TO 100-YEAR FLOOD ELEVATION
- ¨ COPY OF ADDITIONAL PERMIT (S) AS REQUIRED (See Page 5 of Application Form)
- ¨ SOIL EROSION CONTROL PLAN PROVIDED

CHECKOFF FOR FURTHER REVIEW:

- ¨ COPY OF FILE TO BOARD OF APPEALS IF VARIANCE OR SPECIAL EXCEPTION IS REQUIRED
- ¨ COPY OF FILE TO PLANNING BOARD IF PLANNING BOARD REVIEW IS REQUIRED

CHECK OFF FOR SITE VISITS BY CEO:

- ¨ PRIOR TO CLEARING AND EXCAVATION
- ¨ PRIOR TO FOUNDATION POUR
- ¨ PRIOR TO FINAL LANDSCAPING
- ¨ PRIOR TO OCCUPANCY

NOTE: WHERE THE SHORELAND ZONING ORDINANCE REQUIRES A VARIANCE, A CONDITIONAL USE, OR SPECIAL EXCEPTION BY THE BOARD OF APPEALS OR THE PLANNING BOARD, THEN THIS SPECIAL PERMIT SHALL BE COMPLETED BY THE APPROPRIATE BOARD AND ATTACHED TO THE SHORELAND PERMIT APPLICATION.

SPECIAL PERMIT

PROPERTY OWNER	SHORELAND DISTRICT
ADDRESS OF PROPERTY	

FINDINGS OF FACT AND CONDITIONS OF APPROVAL

BD. OF APPEALS _____
PLANNING BOARD _____

CONDITIONS:

1. See standard conditions (attached)
2.
3.

NOTE:
The Findings of Fact and the Conditions of Approval should include the reasons why the special permit was granted and specific conditions which clearly define the scope of the use. In reviewing a request for a variance, Boards of Appeal shall apply the "Undue Hardship" criteria printed on the back of this page. In reviewing a request for a conditional use or a special exception, Planning boards' shall apply the standards of review provided in the' local ordinance.

APPROVED BY: _____ DATE _____
_____ _____
_____ _____
_____ _____

NOTICE TO APPLICANT:

I HAVE READ AND ACCEPT THE CONDITIONS OF THIS SPECIAL PERMIT

APPLICANT _____ DATE _____

"Undue Hardship" Criteria for Granting Variances

Under Title 30-A, M.R.S.A. Section 4353(4), a Board of Appeals may grant a variance only when strict application of the ordinance to the petitioner and the petitioner's property would cause "undue hardship." The term "undue hardship" is defined as:

¨ A. The land in question cannot yield a reasonable return unless a variance is granted;

¨ B. The need for a variance is due to the unique circumstances of the property and not the general condition in the neighborhood;

¨ C. The granting of a variance will not alter the essential character of the locality; and

¨ D. The hardship is not the result of action taken by the applicant or a prior owner.

NOTE: THIS INSPECTION SCHEDULE IS NOT DESIGNED TO	PERMIT NO._____
ENSURE COMPLIANCE WITH BOCA OR OTHER BUILDER CODES,	DATE OF ISSUE_____
BUT RATHER TO ENSURE COMPLIANCE WITH THE LAND USE	RECIPIENT_____
STANDARDS CONTAINED IN THE _____	MAP & LOT #_____
SHORELAND ZONING ORDINANCE.	

SHORELAND ZONING PERMIT

SITE INSPECTION SCHEDULE

PRIOR TO CLEARING AND EXCAVATION DATE _____ CEO _____

PRIOR TO FOUNDATION POUR DATE _____ CEO _____

PRIOR TO FINAL LANDSCAPING DATE _____ CEO _____

PRIOR TO OCCUPANCY DATE _____ CEO _____

FOR OFFICE USE ONLY:
PERMIT NO.: _____
ISSUE DATE: _____
FEE AMOUNT: _____
APPROVED BY: _____

TOWN OF_____
BUILDING OR USE PERMIT APPLICATION

GENERAL INFORMATION

1. APPLICANT	2. APPLICANT'S ADDRESS	3. APPLICANT'S TEL. #
4. PROPERTY OWNER	5. OWNER'S ADDRESS	6. OWNER'S TEL. #
7. CONTRACTOR	8. CONTRACTOR'S ADDRESS	9. CONTRACTOR'S TEL. #

10. LOCATION/ADDRESS OF PROPERTY	11. TAX MAP/PAGE & LOT #	12. ZONING DISTRICT

13. LOT OF RECORD WHAT YEAR _____	14. CONTIGUOUS LOTS LOT NO.(S) _____	15. HISTORICAL BUILDING? WHAT YEAR _____
16. PROPOSED USE	17. COST _____ _____ C.E.O.	18. SPECIAL ZONES ___ SHORELAND _____ ___ WETLANDS initial ___ FLOOD ZONE ___ LOWLANDS __/__/___ ___ SAND SUNE date
19. PROJECT DESCRIPTION		
20. NUMBER OF STORIES PRESENT _____ PROPOSED _____ TOTAL _____	21. HEIGHT OF BUILDINGS PRESENT _____ ft. PROPOSED _____ ft. TOTAL _____ ft.	22. NUMBER OF BATHROOMS PRESENT _____|_____ PROPOSED _____|_____ TOTAL _____FULL _____HALF
23. NUMBER OF BEDROOMS PRESENT _____ PROPOSED _____ TOTAL _____	24. PRESENT SEPTIC SYSTEM IS APPROVED FOR: _____ BEDROOMS	25. YEAR ROUND USE _____ SEASONAL USE _____

26. TYPE OF WATER SUPPLY
☐ PRIVATE
☐ PUBLIC _____ _____
WATER DISTRICT SUPERINTENDENT DATE

27. TYPE OF WATER SUPPLY
☐ PRIVATE
☐ PUBLIC _____ _____
SEWER DISTRICT SUPERINTENDENT DATE

ADDITIONAL PERMITS, APPROVALS & INSPECTIONS REQUIRED

____ PLUMBING _____ BEACH WETLANDS ____ DEP _____SWIMMING POOL
____ SEPTIC/HHE 200 _____ HIGHWAY ZONE ____ EPA ____ WELL
____ SEPTIC VARIANCE _____ BOARD OF APPEALS ____ FIRE MARSHALL ____ FILL
____ PLANNING BOARD _____ SELECTMEN ____ ROAD OPENING ____ SIGN
____ SHORELAND _____ ARMY CORP OF ENG. ____ CULVERT
____ (OTHER) _____ ____ (OTHER) _____
____ (OTHER) _____ ____ (OTHER) _____

PROPERTY INFORMATION

28. FRONTAGE _____ FT.
_____ NONCONFORMING

29. MORE THAN ONE USE EXISING ON THE PROPERTY, ACCESSORY USE:
_____
_____ NONCONFORMING

30. SETBACKS ____NONCONFORMING
_____ _____ _____
FRONT SIDE REAR

31. HOW MANY DWELLING UNITS ARE PRESENTLY EXISTING ON THE LOT
_____

32. LOT SIZE (IN SQ. FT. OR ACRES)
_____
_____ NONCONFORMING

31. TOTAL SQ. FT OF ALL BUILDINGS
PRESENT _____
PROPOSED _____
TOTAL _____

34. LOT COVERATE (IN PERCENT)
PRESENT _____
PROPOSED _____
ZONE % _____

35. NUMBER OF OFF STREET PARKING SPACES
PRESENT _____ | _____
PROPOSED _____ | _____
COVERED UNCOVERED

36. BUILDING PERMITS DO NOT INCLUDE PLUMBING, SEPTIC OR COMERCIAL ELECTRICAL WORK. BUILDING PERMITS ARE VALID FOR ONE YEAR. ANY FALSE INFORMATION MAY INVALIDATE A BUILDING PERMIT AND STOP ALL WORK, SIGNING AUTHORIZES INSPECTIONS NECESSARY TO ISSUE PERMIT AND INSURE COMPLIANCE WITH REGULATIONS. I CERTIFY THAT ALL INFORMATION GIVEN IN THIS APPLICATION IS ACCURATE

_____ _____
APPLICANT AND/OR AGENT DATE

SITE PLAN

PLEASE INCLUDE: LOT LINES; AREA TO BE CLEARED OF TREES AND OTHER VEGETATION; THE EXACT POSITION OF PROPOSED STRUCTURES, INCLUDING DECKS, PORCHES, AND OUT BUILDINGS WITH ACCURATE SETBACK DISTANCES FROM THE SHORELINE, SIDE AND REAR PROPERTY LINES; THE LOCATION OF PROPOSED WELLS, SEPTIC SYSTEMS, AND DRIVEWAYS; AND AREAS AND AMOUNTS TO BE FILLED OR GRADED. IF THE PROPOSAL IS FOR THE EXPANSION OF AN EXISTING STRUCTURE, PLEASE DISTINGUISH BETWEEN THE EXISTING STRUCTURE AND THE PROPOSED EXPANSION.

NOTE: FOR ALL PROJECTS, IN A SHORELAND ZONE, INVOLVING FILLING, GRADING, OR OTHER SOIL DISTURBANCE YOU MUST PROVIDE A SOIL EROSION CONTROL PLAN DESCRIBING THE MEASURES TO BE TAKEN TO STABILIZE DISTURBED AREAS BEFORE, DURING AND AFTER CONSTRUCTION

SCALE: _____=_____FT.

FRONT OR REAR ELEVATION

SIDE ELEVATION

DRAW A SIMPLE SKETCH SHOWING BOTH THE EXISTING
AND PROPOSED STRUCTURES WITH DIMENSIONS

APPROVAL OR DENIAL OF APPLICATION ____MAP_____ LOT

(For Office Use Only)

THIS APPLICATION IS: _____APPROVED _____DENIED

IF DENIED, REASON FOR DENIAL:

_____
_____
_____
_____

IF APPROVED, THE FOLLOWING CONDITIONS ARE PRESCRIBED:

_____
_____
_____
_____
_____

NOTE: IN APPROVING A SHORELAND ZONING PERMIT, THE PROPOSED USE SHALL COMPLY WITH THE PURPOSES AND REQUIREMENTS OF THE SHORELAND ZONING ORDINANCE FOR THE TOWN OF_____.

_____ _____

CODE ENFORCEMENT OFFICER DATE

INSPECTION CHECK LIST

____ Prior to Clearing and Excavation
____ Prior to Foundation Pour
____ Prior to Final Landscaping
____ Prior to Occupancy

PERMIT # _____

FEE AMOUNT _____

REQUIREMENTS FOR A BUILDING OR USE PERMIT

1. _____ Completed Application
2. _____ Site Plan Attached
3. _____ Deed Attached
4. _____ Permit for Subsurface Wastewater Disposal, if needed
5. _____ Building Plans or Floor Plans
6. _____ Culvert permit from Road Commissioner

REQUIRED INSPECTIONS BEFORE AND DURING CONSTRUCTION

1. _____ During foundation excavation, to check setbacks.
2. _____ Before backfilling the foundation, to check the positive drainage, the waterproofing of the wall, and the type of backfill to be used.
3. _____ Before pouring the basement floor, to ensure that water barrier has been placed under the concrete.
4. _____ Fireplace and chimney before or during construction, to be sure coded material is being used.
5. _____ Pre-sheetrock, to insure that bearing walls meet code
6. _____ Roughed in plumbing, to observe the waste vent test and to inspect material used.
7. _____ Final inspection before a Certificate of Occupancy is issued. (You must fill out the application for certificate of occupancy with all required signatures.)

TOWN OF YORK

NAME _____ MAP ____ LOT____

PROPERTY LOCATION _____

TYPE OF USE PERMIT

☐ SHORELAND ☐ HIGHWAY ZONE # _____

☐ WETLAND ☐ OTHER

TOWN ZONE _____

☐ VILLAGE ☐ HARBOR

☐ BEACH

APPLICABLE ORDINANCES

_____

_____

CONDITIONS OF APPROVAL

☐ BOARD OF APPEALS ☐ SELECTPERSONS' APPROVAL

☐ PLANNING BOARD ☐ CODE ENFORCEMENT OFFICE

☐ OTHER PERMITS OR APPROVALS

APPROVED BY _____ DATE _____

I UNDERSTAND AND ACCEPT THE ABOVE CONDITIONS OF THIS USE PERMIT
APPLICANT: _____ DATE _____

TOWN OF YORK **BUILDING PERMIT**	PERMIT NO. _____ ISSUE DATE: _____ FEE AMOUNT: _____ APPROVED BY:_____	
NAME	MAP _____	LOT _____
LOCATION		ZONE
PROJECT DESCRIPTION		

*** PLEASE NOTE***
NO OCCUPANCY WITHOUT A COMPLETED
INSPECTION SECHEDULE AND AN OCCUPANCY PERMIT

SCHEDULE OF REQUIRED INSPECTIONS			**INSPECTION NOTES**
INSPECTION	DATE	INSPECTOR	
FOOTINGS			
FOUNDATION			
CHIMNEY			
PLUMBING			
ELECTRICAL			
FRAMING			
SEPTIC			
FINAL OCC.			
TEMPORARY OCCUPANCY ISSUE DATE _____ ___ 2 MOS. ISSUED BY _____ ___ 6 MOS.			
CONDITIONS OF OCCUPANCY			

PERMANENT OCCUPANCY ☐ **SEASONAL ONLY**
☐ **YEAR ROUND**

APPROVED BY _____ DATE _____

TOWN OF YORK
BUILDING PERMIT NO. _____

363-2050

Date of Issue	Building Inspector	Map and Lot
_____	_____	#_____

BEFORE FOUNDATION	FOOTINGS	DATE _____	INSP _____
4' WALLS- BEFORE BACKFILL	FOUNDATION	DATE _____	INSP _____
OVER 4' – BEFORE POUR WITH STEEL RODS IN PLACE			
AT EYE LEVEL – FIRST FLOOR			
	CHIMNEY	DATE _____	INSP _____
ROUGH } CALL BEFORE	FRAMING	DATE _____	INSP _____
ROUGH } INSULATION OR	PLUMBING	DATE _____	INSP _____
ROUGH } CLOSING IN WALLS	ELECTRICAL	DATE _____	INSP _____
	FINAL	DATE _____	INSP _____

NO OCCUPANCY WITHOUT PERMIT

THIS CARD MUST BE VISIBLE FROM THE LOT FRONTAGE

BUILDING PERMITS EXPIRE IN ONE YEAR

INSPECTION CHECKLIST

(SAMPLE)

Preconstruction Inspection

- ❑ Setbacks/Site considerations
- ❑ Plan accuracy
- ❑ Overhead utilities
- ❑ Public infrastructure features
- ❑ Erosion control

Foundation Inspections

- ❑ Setbacks
- ❑ Soil Conditions
- ❑ Steel
- ❑ Dimensional Requirements
- ❑ Anchor Bolt Location
- ❑ Final Grade Elevations
- ❑ Vapor Barrier
- ❑ Radon Features (if applicable)
- ❑ Damproofing
- ❑ Foundation Drainage

Rough/Close In Inspections

- ❑ Framing
  - o Member size/spacing/materials
  - o Adequacy of materials (thickness of plywood, etc.)
  - o Fasteners (number/size)
  - o Clearances to hot surfaces
- ❑ Electrical
  - o Proper circuit layout
  - o Wire size
  - o Installation methods
    - ❑ Support
    - ❑ Raceways
    - ❑ Stapling
    - ❑ Physical protection
- ❑ Plumbing
  - o Pipe size
  - o Layout
  - o Cleanouts
  - o Pitch
  - o Air/water test
  - o Support
  - o Access panels

- Heat
  - Listed equipment
  - Safety features
  - Fuel tank location and piping
  - Venting
  - Masonry
    - Fireplace construction
    - Woodstove hookups

Certificate of Occupancy

- Egress
  - Stair geometry
  - Handrails/guardrails

- Fire cutoff between house & garage
- Smoke detectors
- Cover plates on electrical connections
- GFIs
- Electrical panel marked
- Proper grounding of system and equipment
- Water supply
- Sewerage system working
- Heat operational
- Stove attached to wall
- Garage door opener safety devices
- Exterior weather surfaces/flashing
- Driveway/street interface
- Grading
- Leave septic and woodstove house as applicable

Septic System Inspections

- Original soil conditions/scarification
- Layout/horizontal dimensions
- Elevations of piping
- D-Box watertight and level
- Piping materials (holes down)
- Physical characteristics of fill/stone
- Septic tank location (hatch ties)
- Electrical if applicable
- Fabric/hay layer materials and application
- Drainage swales if applicable
- Steel over covers
- Return visit for vegetation check

CERTIFICATE OF OCCUPANCY

(SAMPLE)

Map Number _____ Lot Number _____ Zoning District _____ Certificate Number _____

It shall be unlawful to use or occupy or permit the use or occupancy of any premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy shall have been issued therefore by the Code Enforcement Officer and endorsed to the effect that the proposed use of the building or land conforms with the requirements of the Code of ___(Town)_____ and the plumbing is approved as required in the State of Maine Plumbing Code.

Owner's Name: _____

Postal Address: _____

Location of Structure: _____

Subdivision Name:_____ Lot Number: _____

Structure to be used as: _____

Building Permit Number: _____

Other Local Approvals: _____

State Approvals: _____

Contractor: _____

This certifies that inspections, as required statutes, regulations, and ordinances, have been made on this property and structure(s).

The construction is at the completion stage and the proposed use of the building or land conforms with the applicable statutes, regulations, and ordinances.

Signed: _____
Code Enforcement Officer

Date Certificate of Occupancy issued: _____

Comments: _____

_____

_____

_____

Signature: (a minimum of one required): Developer:_____
Contractor: _____
Owner: _____

(SAMPLE) STATEMENT OF EVIDENCE OF VIOLATION

Alleged Violation _____
_____
_____

Where did the violation take place? _____
_____

Date(s) violation took place: From _____ **to** _____.

Owner or occupant of the premises where the violation took place: _____
_____

Name and address of person(s) who did the work: _____
_____

Describe the violation: _____
_____
_____

CEO's personal observation of violation: _____
_____
_____

Witnesses to violation:

_____ _____

_____ _____

_____ _____

Previous notification to violator:

(a) oral Yes ___ **date(s)** _____
No ___

(b) written Yes _____ **date(s)** _____ **Copy Yes** ____
No _____ **No** ____

Other available evidence:

Checks ___
Receipts ___
Contracts ____
Photographs ____
Receipt from registered mail ____
Other ___

CITIZEN COMPLAINT FORM

Reported to: _____ Date Received: _____

Sent to: _____ Date: _____

Town: _____ Water Body: _____

Alleged Violator: _____ Reported by:_____

Address: _____ Address: _____

_____ _____

_____ _____

Phone: _____ Phone: _____

DESCRIPTION OF VIOLATION:

DIRECTIONS TO AREA:

FIELD ACTION:

STATEMENT OF ZONING VIOLATION

This statement is voluntarily given to the Code Enforcement Officer with the understanding that he/she may initiate legal proceedings in a District Court Charging _____ with violating the _____.
(zoning ordinance)

In the event such legal proceedings are initiated, I will appear to testify in court to the facts stated in the following statement.

Date: _____ Signature: _____

Address: _____

Prior to _____ the property located at _____

was being used for _____

On _____ I noticed that the above described property was being used for _____

_____

and in my opinion this use is in violation of Section(s) _____ of the _____

_____Ordinance.

Describe below the uses being made of the property giving exact date and time where possible.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

NOTICE OF VIOLATION/ORDER FOR CORRECTIVE ACTION

TO: _____

ADDRESS: _____

MAP _____ LOT _____

You are hereby notified that you are in violation of: _____

_____

DATE VIOLATION OBSERVED:_____,_____
_____

DESCRIPTION OF VIOLATION:
_____

_____

_____

You are hereby ordered to take the following corrective action or measures no later than:
_____, _____

_____

_____

Failure to comply with this Order may result in court action against your and you may be required to pay a fine. Title 30-A M.R. S.A. Subsection 4452 establishes a fine of $100 - $2,500 for each violation of Ordinance. (A separate fine will be assessed for each day a violation continues). The town will seek an order for corrective action, a substantial fine, plus its attorneys' fees and costs in such an action.

As permitted by Section _____of the Town/City of _____, an appeal of this enforcement action may be taken to the Zoning Board of Appeals within thirty (30) days of the date of this order, by submitting to the Clerk of the Zoning Board of Appeals a written statement and application of the relief requested and why it should be granted. Failure to exercise this administrative procedure will jeopardize your right of appeal.

Please contact the Code Enforcement Officer at the Town/City Hall or by phone at _____if you have any questions concerning this violation and to make arrangements to bring your property into compliance. You <u>must</u> notify the Code Enforcement Officer when corrective action is taken so that a compliance check may be made.

_____ _____
Date Code Enforcement Officer

MAP _____

LOT _____

CITY OF ELLSWORTH

NOTICE OF VIOLATION/ORDER FOR CORRECTIVE ACTION

TO: _____

ADDRESS: _____

You are hereby notified that you are in violation of _____

_____

Violation observed: _____

Description of Violation: _____

_____

_____

You are hereby ordered to take the following corrective action or measures no later than: _____

_____

_____

You may be requested by the Code Enforcement Officer to sign a consent agreement and to pay a fine. Title 30-A M.R. S.A. Subsection 4452 establishes a fine of $100 - $2,500 for each violation of Ordinance. (A separate fine will be assessed for each day a violation continues). If you refuse to enter into a consent agreement and to pay the requested fine, or if the Code Enforcement Officer believes a court action is warranted, court action may be brought against you. The City will seek an order for corrective action, a substantial fine, plus its Attorneys' fees and costs in such an action.

As permitted by Article VII of the Ellsworth Zoning Ordinance, an appeal of this enforcement action may be taken to the Ellsworth Zoning Board of Appeals within thirty (30) days of the date of this order, by submitting to the Clerk of the Zoning Board of Appeals a written statement and application of the relief requested and why it should be granted. Failure to exercise this administrative procedure will jeopardize your right of appeal.

Please contact the Code Enforcement Officer if you have any questions concerning this violation and to make arrangements to satisfy the penalty. You <u>must</u> notify the Code Enforcement Officer when corrective action is taken.

_____ _____

Date Code Enforcement Officer

SAMPLE: Notice of Violation, Letter 1

April 1, 2004

Town of Smalltown
Office of Code Enforcement
Smalltown, ME 01234
Tel: (207) 123-4567

Mr. John Doe
Green Street
Smalltown, ME 01234

Dear Mr. Doe:

On April 1, 2004, I notified you verbally that you were in violation of Section 8 of the Smalltown Shoreland Zoning Ordinance for failing to apply for a permit to locate a structure in the shoreland zone on your property on Green Street.

The Town of Smalltown seeks your voluntary compliance with the Shoreland Zoning Ordinance. Enclosed are application forms for the required permit. Please complete these forms and submit them to this office by April 14, 2004. I will be happy to assist you if you have any questions.

If I do not receive your application by April 14, 2004, I will be forced to order you to remove the illegal structure, pursuant to section 10 (D)(2) of the Shoreland Zoning Ordinance.

Section 10(D)(4) of the Shoreland Zoning Ordinance states that any person who violates any provision of the ordinance is guilty of a civil violation and is subject to a fine of up to $2,500 for each offense. In order to minimize the amount of the fine which a court could award against you if you the Selectmen decided to collect a fine, I encourage you to contact me about this as soon as possible.

Sincerely,

Joseph Jones
Code Enforcement Officer

JJ:akd
Enclosure

SAMPLE: Notice of Violation, Letter 2

April 15, 2004

Town of Smalltown
Office of Code Enforcement
Smalltown, ME 01234
Tel: (207) 123-4567

Mr. John Doe
Green Street
Smalltown, ME 01234

Dear Mr. Doe:

You have received prior notice on April 1, 2004 of activities conducted by you in violation of Section 8 of the Smalltown Shoreland Zoning Ordinance. The notice requested your voluntary compliance with Section 8 of the Ordinance by asking that you submit an application to this office for a permit by April 14, 2004.

Because you have failed to submit an application by April 14, 2004 as requested, I hereby order you to remove the structure which you illegally placed in the shoreland zone on your property on Green Street, pursuant to Section 10(D)(2) of the Ordinance. If you have not removed the illegal structure within 10 days of receiving this notice, I will be forced to recommend that the Board of Selectmen initiate legal proceedings against you.

I would like to remind you that Section 10(D)(4) of the Shoreland Zoning Ordinance states that any person who continues to violate any provisions of the ordinance after receiving notice of the violation is guilty of a civil violation and subject to a fine of up to $2,500 for each violation. If the Town is forced to take you to court and wins, the judge may order you to pay all of the Town's attorneys' fees and court costs, in addition to fining you and ordering you to remove your building.

Clearly, it is in your best interest to resolve this matter out of court. Please contact me immediately to discuss your intentions regarding this violation.

Sincerely,

Joseph Jones
Code Enforcement Officer

JJ:akd

(Note: If the ordinance provides for a CEO's enforcement order to be appealed to the local appeals board, this violation letter should describe the appeals procedure and the effect of failing to appeal. In addition to a violation letter, it is recommended that a standard Notice of Violation form be used. See sample Notice of Violation/Order for Corrective Action form.)

SAMPLE: Notice of Violation, Letter 3

April 27, 2004

Town of Smalltown
Office of Code Enforcement
Smalltown, ME 01234
Tel: (207) 123-4567

Mr. John Doe
Green Street
Smalltown, ME 01234

Dear Mr. Doe:

This to notify you that the board of Selectmen has voted to initiate legal proceedings against you to enforce the provisions of the Smalltown Shoreland Zoning Ordinance, pursuant to section 10 (D)(3). The Board was forced to take this action as a result of your failure to comply with my previous requests for voluntary compliance with the provisions of the Shoreland Zoning Ordinance, dated April 1, 2004 and April 15, 2004.

If you wish to enter a consent agreement with the Town to resolve this matter out of court, please contact me immediately.

Sincerely,

Joseph Jones
Code Enforcement Officer

JJ:akd

ENFORCEMENT CHECKLIST

1. **Name of landowner: _____**
   Address:_____

2. **Description of violation**
   - **Ordinance/section _____**
   - **Brief description _____**

3. **Source of knowledge of violation:**
   _____ CEO
   _____ Other official _____ (name)
   _____ Citizen _____(name and address)

4. **Investigation**
   ____ Violation detected
   ____ No violation found

5. **Verbal notice given on _____, _____ (date)**
   _____ Violation terminated
   _____ Violation continues

6. **1st written notice given on _____, _____ (date)**
   _____ Violation terminated
   _____ Violation continues

7. **2nd written notice given on _____, _____ (date)**
   _____ Violation terminated
   _____ Violation continues

8. **Temporary Restraining Order necessary**
   _____ Yes/obtained on _____, _____ (date)
   _____ No

9. **Administrative consent agreement signed**
   _____ Yes on _____, _____ (date)
   _____ No

10. **Referred to municipal officers for prosecution/violator notified**
    _____ Yes on _____, _____ (date)
    _____ No

11. **Rule 80K compliant filed**
    _____ Yes on _____, _____ (date)
    _____ No

12. **Decision by court**
    Town won on _____, _____ (date)
    Town lost on _____,_____ (date)

STATE OF MAINE
Madison, ss.

District Court
Civil Action Docket
Docket # _____

INHABITANTS OF THE TOWN OF HAPPY VALLEY,	)	
Plaintiff	)	APPLICATION FOR AMINSITRATIVE INSPECTION WARRANT PURSUANT TO M.R.CIV.P. 80E
V.	)	
PAUL LOOTER	)	
Defendant	)	

I, _____, being first duly sworn, depose and say under oath as follows:

My name is _____. The facts set forth herein are true based upon my personal knowledge.

1. This is an application pursuant to M.R.Civ.P.80E for an Administrative Inspection Warrant to enter upon and inspect certain property located in the Town of _____, _____ County, Maine. The property is shown on the Town Assessor's records as Map _____, Lot _____. According to the Assessor's records, the owner of the property is _____Company. I am authorized under 30-A M.R.S.A§4452(1)(A) and under Section _____ of the Town of _____ Zoning Ordinance to enter onto property in order to inspect for compliance with the Zoning Ordinance. The purpose of the requested inspection is to determine whether _____ Company is unlawfully extracting said gravel from the property without a permit from the Town of _____ Planning Board, as required by Section _____ of the Town of _____ Zoning Ordinance.

2. The inspection being sought is not part of a general area inspection.

3. I have probable cause to believe that there is located on the premises to be inspected a gravel extraction operation being operated without the permit required by Section _____ of the Town of _____Zoning Ordinance. The grounds for probable cause arise from my personal observations on [list dates]. On each of those dates, although I was denied access to the interior portion of the property, I parked on the public street at the driveway entrance to the property and observed activity there for at least two hours on each of those dates. During all of the times that I was parked in that location, I observed steady flow of large dump trucks going to and from the property. The trucks would enter the property and leave with full loads of sand and gravel material. Most of the trucks were marked with the name _____ Company. In addition, at those times when there was not a truck coming or going, I could hear the sounds of heavy equipment coming from the interior of the property and could observe clouds of dust which, in my experience as a Code Enforcement Officer, are often associated with digging, processing and loading sand and gravel.

4. On _____, 20__, I went to the business office of _____ Company an spoke with a Mr. _____, who identified himself as the company's President. I requested permission to inspect the property and he denied that request.

5. On _____, 20__, [at least twenty four hours in advance of the hearing] I gave _____Company written notice of the time and place at which I intend to present this application to the court.

Dated: _____

_____

STATE OF MAINE
____[County]__, ss. _____[Date]__, 20__

Then personally appeared before me the above-named _____, in his capacity of Code Enforcement Officer for the Town of _____, and made oath that the foregoing statements are true based on his personal knowledge.

Before me,

_____
Notary Public
Printed Name
Commission Expires:

STATE OF MAINE
Madison, ss.

District Court
Civil Action Docket
Docket # _____

INHABITANTS OF THE TOWN OF HAPPY VALLEY,	)	
Plaintiff	)	AMINSITRATIVE INSPECTION WARRANT
V.	)	
PAUL LOOTER	)	
Defendant	)	

Application having been made before me by _____[Name]___, Local Plumbing Inspector for the Municipality of ___[Town or City]___, that he has reason to believe that on the premises known as ___[Street Address]___, Municipality of __[Town]___, County of ____[County]___, State of Maine there is located certain plumbing or work or construction regulated by the Maine State Plumbing Code and other related statutes which he is authorized by 30-A M.R.S.A.§4221 and Section _____ of the Maine State Plumbing Code, to inspect, Name, __[here Judge states probable cause for issuing the warrant]__ and as I am satisfied that there is probable cause to believe that such plumbing, work or construction is located on the premises so described.

YOU ARE HEREBY COMMANDED to allow inspection of said premises by __[Name]__, Local Plumbing Inspector, serving this warrant and making the inspection in the daytime, for the purpose of inspecting plumbing, work, or construction to insure compliance with the Maine State Plumbing Code and related Statutes.

Dated this __[Day]__ day __[Month]__, 20__.

_____
District Court Judge

NOTICE OF APPLICATION FOR ADMINSTRATIVE INSPECTION WARRANT

TO: Paul Looter

184 Pond Road
Happy Valley, ME 01234

This is to notify __[Name]___, the owner (or occupant) of the premises known as __[address]___, in the Municipality of __[Town]__, County of __[County]__, State of Maine, that on the _____ day of ___[Month]___, at _____ o'clock, the Local Plumbing Inspector intends to present an application for an Administrative Inspection Warrant for the inspection of the above named premises. The application shall be made before the District Court, District __[number]__, Division of __[Name]__. You have the right to be present to state your opposition, if any, to the issuance of the warrant.

DATED: _____

_____
I.M.Good, Local Plumbing Inspector
Town of Happy Valley
P.O. Box 1
Happy Valley, ME 01234
Telephone: 876-5432

ATTACH RETURN OF SERVICE

Sample: Return of Administrative Inspection Warrant

RETURN OF ADMINISTRATIVE INSPECTION WARRANT

On the _____day of _____, 20___, at __(time)_____, pursuant to an Administrative Inspection Warrant issued by (name of District Court and Division) on the _____ day of _____, 20___, I, _____, Local Plumbing Inspector for the Municipality of _____, County of _____, in the State of Maine, inspected the premises known as _____(street) , _____(Municipality)_____, (state)____, and found the following violations of the Maine State Plumbing Code and other related statutes:

Dated this _____day of _____, 20____.

_____

Local Plumbing Inspector

Municipality of _____

MUNICIPAL ORDINANCE VIOLATION NOTICE DATE: _____

RESPONSIBLE PARTY	An inspection conducted on the above premises has revealed the existence of conditions in violation of municipal codes, as described below. The violation is determined to present:
ADDRESS	☐ IMMEDIATE DANGER OR NUISANCE ☐ SHORT TERM DANGER OR NUISANCE ☐ LONG TERM DANGER OR NUISANCE
PREMISES IN VIOLATION	

CODE SECTION CITED	CORRECTIVE ACTION REQUIRED

ENFORCEMENT OFFICER	DEPARTMENT	CORRECTIVE ACTION TO BE COMPLETED BY	CITATION TO BE PAID NOT LATER THAN	AMOUNT OF CITATION
PRINT		/ /	/ /	$

Failure to comply with the above cited violation(s) by the deadline stated will result in the issuance of additional citations in time intervals and to the amounts as detailed below. The ranges for corrective action given below shall be considered reasonable, although they are alterable based on the inspector's assessment.

Immediate Risk or Nuisance: The violator will be given 1 hour to 24 hours to abate the problem.
Short-Term Risk or Nuisance: The violator will be given 24 hours to one week to abate problem.
Long-Term Risk or Nuisance: The violator will be given one week to abate the problem.

SCHEDULE OF FINES

Initial Investigation and Demand to Comply . . . . . .$ 0
1st Offense . . . . . $ 50
2nd Offense . . . . . .$ 100
3rd Offense . . . . . .$ 200
4th Offense . . . . . .$ 500

If future inspections determine that you are responsible for a recurrence of the violation(s) at this location, a citation subjecting you to payment of a fine may be issued without further notice at the prescribed graduated fine increases as detailed above for each repeated code violation.

Unpaid fines accrue at 18% per annum beginning 5 days after the date the civil penalty became due, and may lead to court action.

You have the right to request in writing from the enforcement official an extension of the period to correct the violation. The enforcement official's decision shall be given within two working days of receipt and shall be final.

Any appeal of this violation notice claiming the true intent of the code has been misconstrued must be filed within 48 hours of this demand for corrective action. Appeals temporarily suspend the time period specified for corrective action. All appeals require notification of the issuing enforcement official (as noted in your citation). Address such appeals to (Town Code Enforcement Officer)

Payment of this fine may be made in person or by mail to (Town Office)

If you have any questions regarding this notice, or require information to promptly file an appeal, please call the issuing inspector (Telephone number). Otherwise, the inspector will return at some point after the date of compliance completion for a re-inspection.

_____
SIGNATURE OF ENFORCEMENT OFFICER

RETURN WITH PAYMENT

CHAPTER 33

CITATION SYSTEM OF CODE ENFORCEMENT

Article 1 Enforcement Procedure

1.1 Application of Citation System

This chapter shall apply to enforcement proceedings under chapter 22 (Health Code), chapter 27 (Street Opening Permits), chapter 20 (Building Code), chapter 9 (Electrical Code), chapter 20A (Housing Code), and chapter 29 (Zoning Code). The inspectors under the various codes are hereinafter referred to collectively as "enforcement officials."

1.2 Investigation

Upon receipt of information indicating the likelihood of a violation of this chapter, the enforcement official or his duly authorized agent shall investigate the facts and may make an inspection of premises when legally authorized to do so.

1.3 Notice of Violation

If the investigation reveals that a code violation has occurred, the enforcement official Shall give written notice of such violation to the person, firm, or corporation having control of the land, building, structure, or sign involved in the violation (hereinafter referred to as "the violation") and demand that the violation be corrected. Notice of the violation may be delivered in hand to the violator or left for him with a person of suitable age and discretion living in the same household or mailed to him by certified mail to his last known address. Such notice shall also describe the violation(s) including a reference to the ordinance section(s) violated, specify a reasonable period as to each violation within which corrective action must be completed, and state the potential consequences if the violation(s) is not corrected. The notice shall also advise the property owner of his right to appeal to the appropriate authority pursuant to section 2.8 of this chapter if he disagrees with the enforcement official's determination that he is violating the ordinance.

1.4 Civil Proceedings

If appropriate action to correct the violation(s) has not been taken within the period established, the enforcement official and/or the City Solicitor may initiate appropriate court proceedings to prevent, correct, and/or abate the violation(s). Such court proceedings may include the initiation of a land use complaint pursuant to Rule 80K of the Maine Rules of Civil Procedure.

*Added 3/12/90

CONSENT AGREEMENT AND COMPLIANCE ORDER

This document constitutes an agreement between Joe Smith of 123 West Street, Northville, Maine (hereafter referred to as "Smith") and the Town of Northville, Maine by and through its certified Code Enforcement Officer (hereafter referred to as "Town") for the purposes of enforcing and resolving violations of the Town's Shoreland Zoning Ordinance and the State of Maine Subsurface Wastewater Disposal Rules.

Both Smith and the Town agree as follows:

1) Smith is a resident of the town of Northville. He resides and operates a construction business at 123 West Street, Northville.

2) The Town's Shoreland Zoning Ordinance and map were adopted March 2, 1993. Section 8(b) of the ordinance requires a shoreland zoning permit from the Planning Board in order to expand a nonconforming use. Section 10(22) of the ordinance requires a shoreland zoning permit from the Code Enforcement Officer to install a subsurface disposal system. Permits are required when these activities are conducted in areas shown as limited Residential-Recreation Districts on the zoning map.

3) Section 3 of the Maine Subsurface Wastewater Disposal Rules requires a permit from the plumbing inspector to install a new subsurface wastewater disposal system.

4) On or about May 19,1994, Smith and his employees constructed an attached wooden deck on the south side of a residential structure owned by Jane Wealthy located at 184 Lake Road in Northville (recorded at the Somerset County Registry of Deeds, Book ___, Page _____). Smith and his employees also constructed a new subsurface wastewater disposal system on this property on or about May 19, 1994.

5) Smith constructed the wastewater disposal system without the permit required by the Wastewater Disposal Rules.

6) The lot at 184 Lake Road is located in the Limited Residential-Recreation District as shown on the Town's Shoreland Zoning Map. The lot is one half acre and was recorded prior to the effective date of the ordinance. The residence on this lot sets back 42 feet from normal high water mark and was constructed prior to the effective date of the ordinance. Section 11 of the Town's ordinance currently requires a lot size of 1 acre and a setback of 75 feet. Therefore, the structure is a nonconforming use.

7) Smith constructed the deck and the subsurface disposal system without the permits required by the Town's Shoreland Zoning Ordinance.

8) The Town's Code Enforcement Officer provided proper notice of these violations to Smith and the landowner (Wealthy). Notice of the violation included a right to appeal to the Town's Board of Appeals. No appeal of the Code Enforcement Officer's order to correct the violation was filed.

9) In consideration for the release by the Town of the causes of action which the Town has against Smith resulting from the violations enumerated in this agreement, Smith agrees to:

A. File applications with the Planning Board and the Plumbing Inspector for permits to construct the deck and the subsurface wastewater disposal system and to pay the required application fee of $_____ for the shoreland zoning permits and $_____ for the disposal system permit. Complete applications shall be filed on or before July 13, 1994. The Planning Board and the Plumbing Inspector shall approve or deny the applications within 10 days of receipt. On or before October 1, 1994 the deck and the disposal system shall either be in compliance with the requirements of the Town's Shoreland Zoning Ordinance and the State's Subsurface Wastewater Disposal Rules, including acquisition of the necessary permits, or they shall be removed by Smith.

B. Pay to the Town the sum of $200 as a penalty for failing to apply for the necessary permits.

10. In consideration for and upon the completion of the undertaking set forth in the preceding paragraph, the Town releases the causes of action which it has against Smith arising from the violations and activities described in this agreement. In the event that all aspects of this agreement are complied with by Smith, the Town will take no further enforcement action against Smith for this cause of action.

ORDER

Based on the above agreement, the Code Enforcement Officer for the Town of _____ orders Smith to comply with this agreement as outlined.

Dated: _____ /s/ _____
Joe Smith

Dated: _____ /s/ _____
Town of _____, by John E. Begood, Certified Code Enforcement Officer/Plumbing Inspector

APPENDIX L

Consent Agreement

WHEREAS, John Doe ("The Landowner") has conducted a clear-cutting operation without a permit within 250 feet of Trout Stream on land he owns (described in Book 6, page 58 at the Kennebec County Registry of Deeds), in a designated Resource Protection District, which has resulted in slash being deposited in the stream and which has increased the chances of soil erosion in that area;

WHEREAS, such activity constitutes a violation of Sections 10 and 11(N) of the Shoreland Zoning Ordinance of the Town of _____, ("the Ordinance"); and,

WHEREAS, the Code Enforcement Officer for the Town has duly notified the Landowner of the violation; and,

WHEREAS, Section 12 of the Ordinance authorizes the Municipal Officers to initiate legal action to enforce the Ordinance by obtaining a court order requiring the Landowner to pay a fine, clean up the slash deposits in the Stream, and take appropriate precautions against erosion; and,

WHEREAS, the Town and Landowner have been cooperating with each other in an attempt to reach an out-of-court settlement;

NOW, THEREFORE, the Town and Landowner agree as follows:

1. The Landowner agrees voluntarily to pay a $100 fine to the municipality by (state deadline) and to clean up the slash and replant the area in accordance with an erosion control plan agreed upon by the Town and the Landowner and which conforms to the Environmental Quality Handbook Erosion Control (1972), published by the Soil and Water Conservation Commission, by (state deadline); and

2. The Town agrees to relinquish its right to prosecute the Landowner for violating the Ordinance in consideration of the Landowner's promise to pay a fine, remove the slash, and implement the agreed-upon erosion control plan; EXCEPT THAT, if the Landowner breaches the terms of this Agreement by failing to pay the $100 fine, clean up the slash, and implement the agreed-upon erosion control plan by the agreed-upon deadlines, the Town then may institute appropriate court proceedings to enforce the provisions of the Ordinance.

Done and dated at _____, Maine
this _____day of _____, 20_____

By: /s/ _____
_____
Landowner

Accepted and dated at _____, Maine
this _____day of _____, 20_____

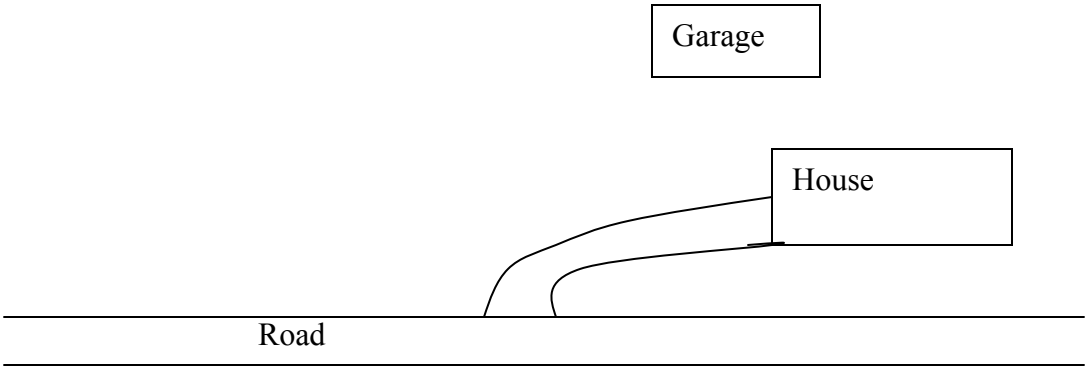
/s/ _____
Selectman

/s/ _____
Selectman

/s/ _____
Selectman

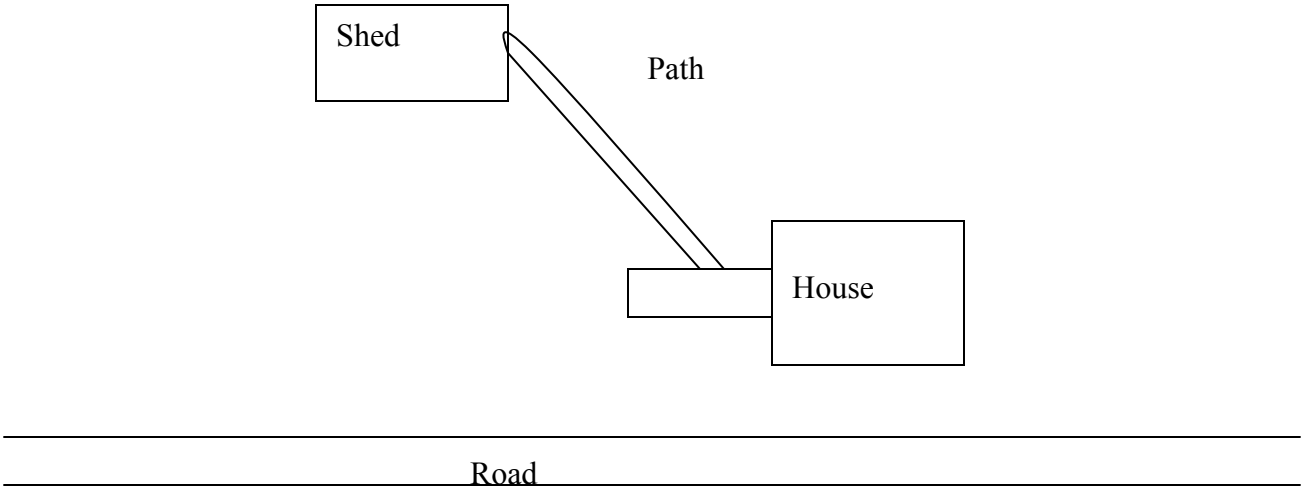
WHAT IS CURTILAGE?

Scenario #1



Detached garage within 10 feet of house? Yes. See *State v. Brochu* 237 A.2d 418 (Me. 1967).

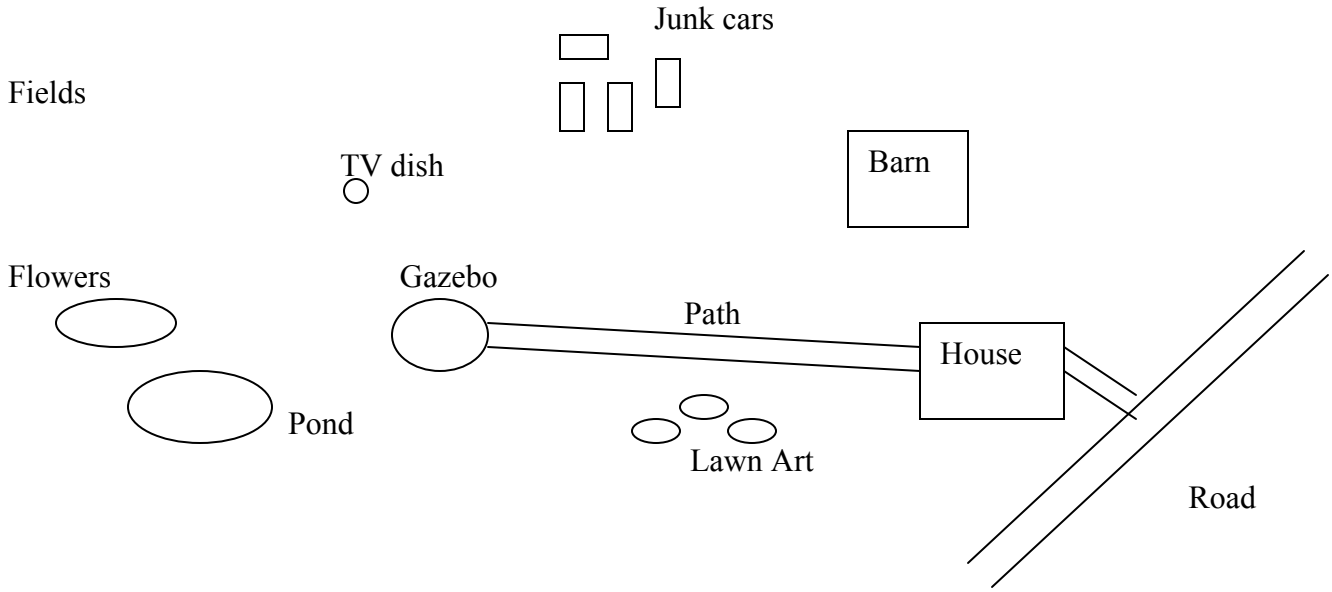
Scenario #2



Storage shed 65 feet from the house:

A) in dilapidated state, no door, no glass on windows: Not curtilage. See State v. Martin, 553 A.2d 1264 (Me. 1989).
B) in good repair, lock on doors, shutters on window? Probably considered curtilage.

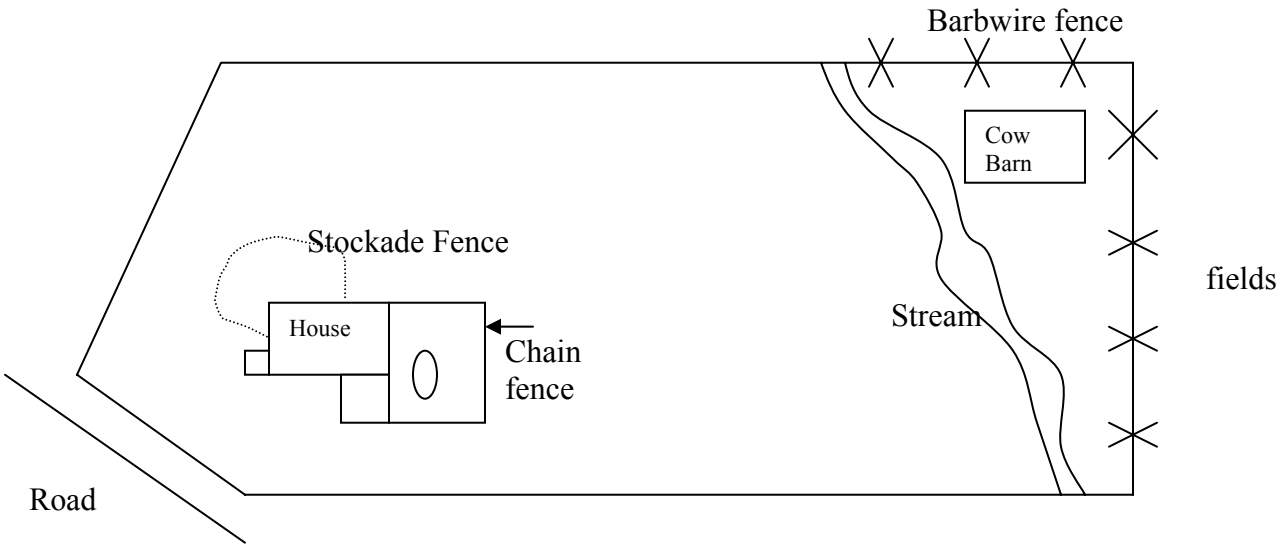
Scenario #3



A) FLOWER GARDEN 250 FEET FROM HOUSE? CURTILAGE STATE V. SILVA, 509 A.2D 659 (ME. 1986).

B) Four junked cars? Within curtilage, but if visible from the road. O.K. for probable cause.

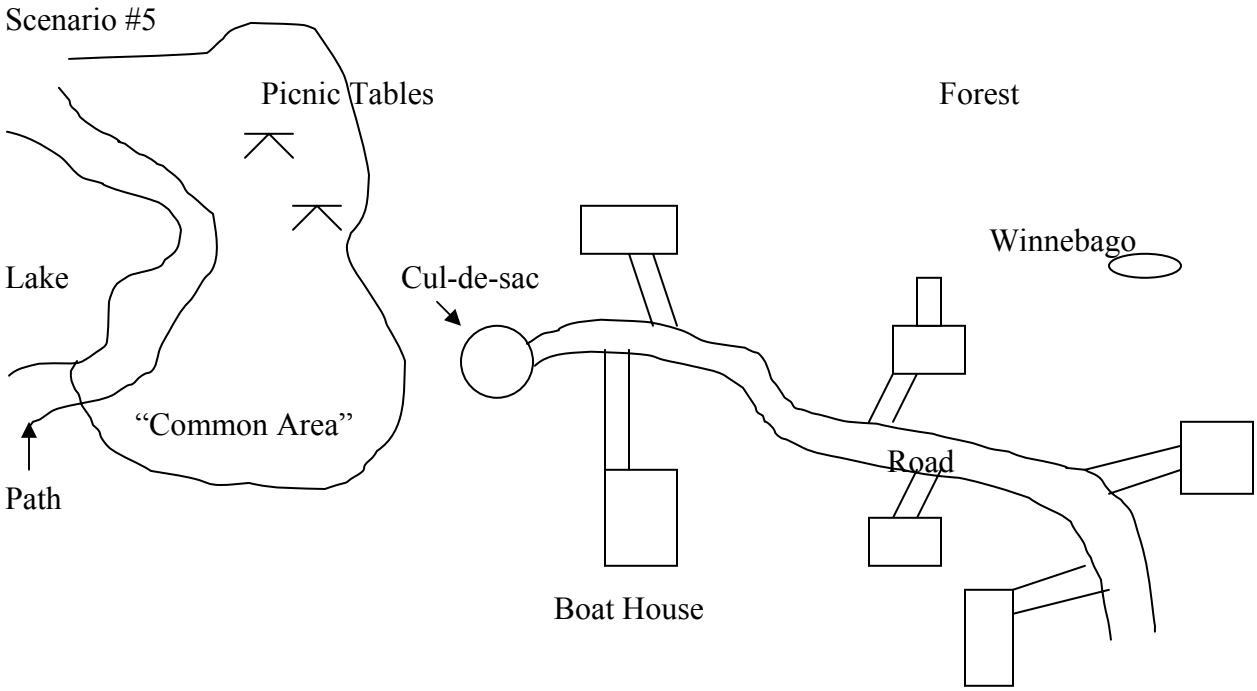
Scenario #4



A) Area inside the stockade fence? Curtilage.

B) Pasture enclosed by barbed wire? Probably not curtilage –fence is there to keep animals in, not as an indication of privacy of the home.

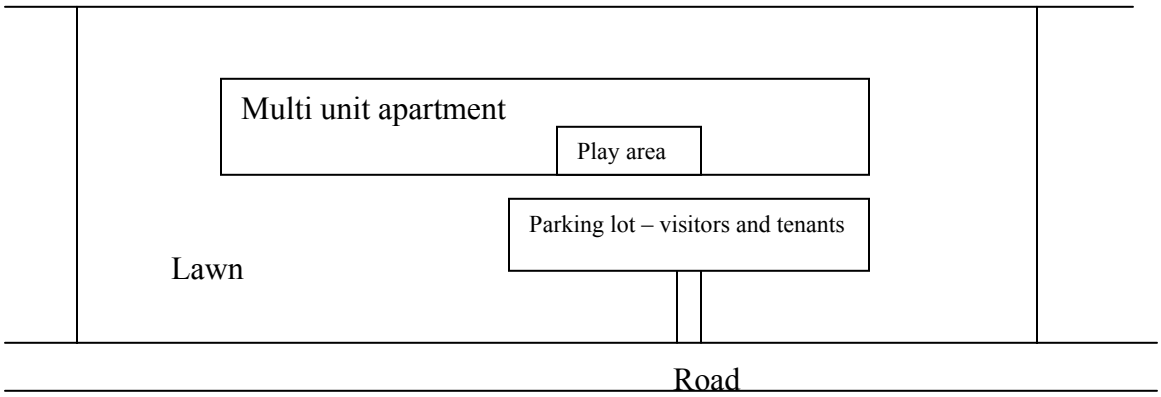
Scenario #5



Subdivision:

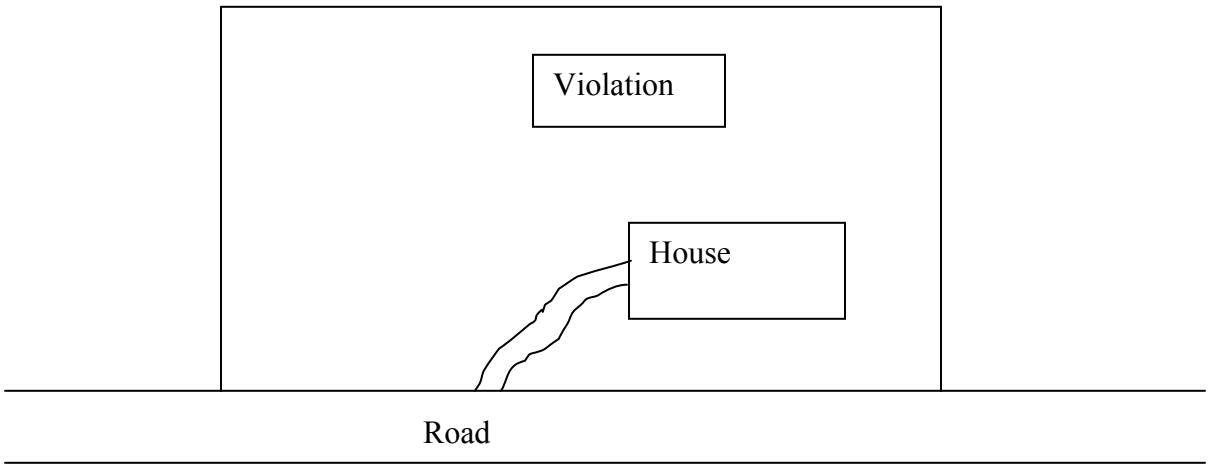
A) Common picnic area? Probably curtilage –try to get permission from one owner, or observe area by boat.
B) Winnebago motor home? Curtilage.

Scenario #6



A) Parking Lot – probably not curtilage
B) Play area – Probably curtilage

Scenario #7



You walk down the driveway, stand on the porch and ring the bell, in order to get permission to inspect – you see a violation from there. Curtilage? Yes, but the violation is not protected. *State v. Cloutier*, 544 A.2d 1277 (Me. 1988).

LEGAL NOTICE

DATE: _____

WHEREAS, violations of
- Article _____, Section _____ of the Zoning Ordinance
- Article _____, Section _____ of the Building Code
- Article _____, Section _____ of the _____ Code
- M.R.S.A._____, Chapter

have been found on

These premises, IT IS HEREBY ORDERED in accordance with the above Code that all persons cease, desist from, and

STOP WORK

AT ONCE PERTAING TO CONSTRUCTION, ALTERATIONS OR REPAIRS ON THESE PREMISES KNOWN AS

_____

ALL PERSONS ACTING CONTRARY TO THIS ORDER OR REMOVING OR MUTILATING THIS NOTICE ARE LIABLE TO ARREST UNLESS SUCH ACTION IS AUTHORIZED BY THE DEPARTMENT

_____

BUILDING OFFICIAL

Pine Tree Line, T499
Marks Printing House, Portland, Me.

SAMPLE "NO ACTION" LETTER #1

CITY OF AUBRUN

June 1, 1994

John Doe
Country Title Company
Post Office Box 000
Auburn, Maine 04212-0867

Dear John,

I have reviewed the Mortgage Loan Inspection performed by Survey Inc. for property located at 123 River Drive and have determined that the encroachment of the porch into the front yard setback area is insignificant and will not cause the City to take action against the current or future property owner to have it removed. This determination was reached by understanding that the encroachment is minor, the violating structure is an open porch and that establishing the setback on a curved cul-de-sac is difficult and subject to greater tolerance than usually applied to a straight property line.

I trust that this information addresses your concern. If more information is needed, please do not hesitate to contact me.

Sincerely,

James P. McPhee, Director
Land Use Planning and Enforcement

SAMPLE "NO ACTION" LETTER #2

CITY OF AUBRUN

February 2, 1994

John Doe
Country Title Company
Post Office Box 000
Auburn, Maine 04212-0867

Dear John:

At your request, I have reviewed the Mortgage Loan Inspection by Survey Inc. for property owned by Jane Smith located at 2 Park Avenue. The plan indicates that a minor front yard setback violation may exist along the Park Avenue frontage. Given the accuracy of non-instrument survey, the minor violation (=/-1foot) and the fact that the City permitted construction of the home, inspected it and has never recognized or had a complaint regarding any apparent setback violation, I herein state that the City will not take any action against the property owner to cause the setback violation, of one exists, to be corrected.

If I can be of further assistance in this matter, please do not hesitate to contact me.

Sincerely,

James P. McPhee, Director
Land Use Planning and Enforcement

SAMPLE "NO ACTION" LETTER #3

CITY OF AUBRUN

April 24, 1996

John Doe
Country Title Company
Post Office Box 000
Auburn, Maine 04212-0867

Dear John,

At your request, I have reviewed the Mortgage Loan Inspection prepared by Survey Inc. for property owned by Joan A. Public located at 15 Maine Avenue. The inspection shows that there is a violation of the northwesterly side property line of approximately 5 feet. The result is a 0 setback along that boundary. The required setback would be 5 feet.

In researching the issue, I have searched Board of Appeals files and other municipal files and can find no answer as to how this setback may have been officially allowed. Our records indicate that the structure, including the violation portion, as constructed in approximately 1953. Knowing how permits were issued in that era – generally without a plot plan or much other detail being submitted for a building permit – it appears that the violation was not apparent at the time of permit issuance. Because the structure was built in reliance on a municipally issued building permit and there have been no known actions by the City to discover and/or correct this violation, the City will not now cause the owner to demolish the violating portion of the building to bring it into compliance with the required setback.

I trust that the foregoing answers your questions. If further assistance is needed, please do not hesitate to contact me.

Sincerely,

James P. McPhee, Director
Land Use Planning and Enforcement

Notice of Code Violations

Municipal code enforcement officers should be aware of a recent Maine Supreme Judicial Court decision, *Town of Freeport v. Greenlaw*, 602 A.2d 1156 (Me. 1992). The case offers some guidance on the content required for a notice of a code violation in order to satisfy constitutional due process requirements.

In the *Greenlaw* case, the Freeport CEO sent a letter to the landowner informing him about the approval process for a proposed deck. In that same letter, he also noted that some picnic tables on the property were in violation of the town's ordinance and must be removed immediately. The ordinance sections being violated were not cited. The last line of the letter instructed the owner to "(please remove the tables and seats upon receipt of this letter." The owner failed to remove the tables and failed to appeal the CEO's request to the board of appeals, even though such and appeal was authorized by the ordinance. The owner apparently believed that the tables were a legally protected nonconforming use but never raised this issue until the Town prosecuted him for a zoning violation. The Town argued to the Superior Court that it was too late for the landowner to raise this defense to the CEO's enforcement order and the court agreed.

On appeal, the Maine Supreme Court found that the landowner was entitled to raise the grandfathering issue despite his failure to appeal to the board of appeals. The court held that the CEO's letter did not constitute an "order" which could have been appealed to the zoning board because it was worded merely as a request and was not detailed enough to satisfy minimum due process requirements. In the words of the court: "Minimally, to be effective in triggering the running of an appeal period, an order to refrain from taking or continuing certain action because it violates a zoning ordinance should refer to the provisions of the ordinance allegedly being violated, inform the violator of the right to dispute the order and how that right is exercised by appeal and specify the consequences of failure to appeal…"

CEO's should compare the content of their violation notices with the holding in Greenlaw and make any necessary changes to avoid the problems faced by the Town of Freeport in its enforcement action. (By R.W.S.)

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Showing Degrees of Relationships

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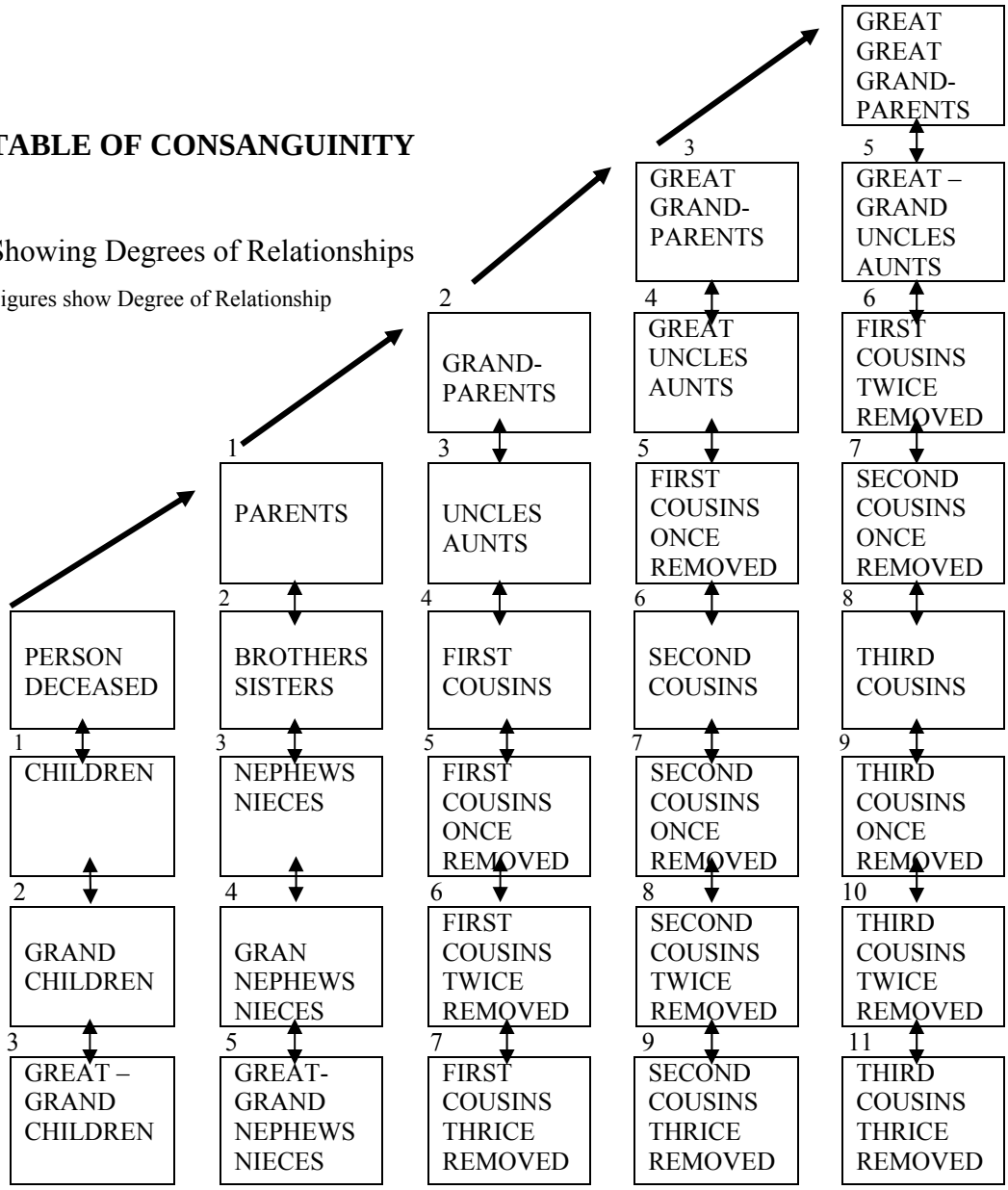

SALESMANSHIP

The Art of Gaining Code Compliance

By Martin G. Collins, Deputy Commissioner of the Building Inspectors Dept. For Milwaukee, WI

Reprinted from "The Building Official and Code Administrator", July/August 1991 Issue

An Inspector's Salesmanship

The best inspector is one who can tell someone to go to hell in such a way that they just know they're going to enjoy a very warm trip to a lovely paradise for eternity. Code inspection is in the business of changing people's behavior and altering their priorities. Code Enforcement is the art of persuading someone to do something about a situation in which the owners would rather do nothing. This is particularly true when it comes to spending more money than initially thought. The best inspectors are able to convince owners of the correctness of the inspector's position without having to resort to legal action, except in rare cases. There are a variety of techniques that inspectors use to achieve this result. While legal action lurks in the background as a compliance tool, there are many arguments that can be used to motivate people to make the necessary changes in their buildings and to convince them, in fact, that it's really in their best interest to do what the code requires.

Salesmanship

Salesman ship is an art and a method of convincing someone of the correctness of another's position. Sales is a well-developed art form that has much written about it. The classic example is the automobile salesperson, who uses a variety of techniques, both verbal and non-verbal to get a customer to purchase the product. The best automobile salespeople are those who not only get customers to purchase the products, but make them feel good about the purchase.

While this article is primarily about the verbal techniques used, most successful sales people do not look solely to the verbal techniques, but rather rely more heavily on nonverbal methods. There are many subtleties used by salespeople; the most obvious of which is visual image. The best salespeople are well dressed so as to appear confident. An appropriately dressed inspector can project the same subtle message – "I know what I am talking about; I am an expert." There are several subtleties that sales people use, such as calling someone by their name and getting them to say yes in a number of situations to questions that seem somewhat unrelated to the actual purchase.

What follows is a list of potential arguments that can be used in different settings by an inspector to convince the owner to comply with the code. Not all arguments are applicable in all situations, but when used, they require the skill of the inspector to apply them properly. Obviously, the most successful inspectors begin with the least hostile approaches before moving to the heavier handed arguments. The arguments and techniques were compiled for this article with the guidance and contribution of many staff members. A fundamental skill needed to implement these techniques is the ability to be a good listener. Listening gives the inspector

clues as to which sales techniques should not be applied. Turning the owner's concerns and commitments around and feeding them back may make it easier to reach a point of agreement, as well as enhance the inspector's role as a problem solver and not just a police officer. A little sympathetic acknowledgement of the owner's woes never hurts.

Argument #1: "Appeal to reason".

This is the most basic argument. Most codes are based on some fundamental rationale, and explaining why the code exists can often be sufficient. There will be times when the code requires "magic number" compliance. Situations like this can include stair riser height and handrail distance. The magic number situation can be explained on the basis that there is a need for uniformity in such items so that people can react of custom. For example, the stair riser image involving uneven stair risers is an easy one to visualize.

"I go into a building with the attitude that I'm costing the people money they can't afford," said Mike Krowski, Plumbing Inspector in Milwaukee's Building Inspections Department. Sometimes, he added, the rejected work has been working fine for a long period of time. " I try to give a reason why it's wrong, and what could happen if (it is) not corrected", said Krowski, who tries to keep a smile on his face, as well as listen to the owner's problems. "I try to put myself in their position, and together we work out a solution to their problems." Said Krowski.

Argument #2: "A stitch in time, saves time."

If it is fixed now, more costly damage will be averted later. This argument can be particularly applied to any water-related item, such as gutters, tuckpointing, defective siding, roof repair, exterior paint, plumbing leaks, etc.

Argument #3: "You probably think that it will raise your taxes, but it won't."

Most repair items, especially paint, do not affect one's property tax assessment, except to the extent that they indirectly affect the sales of comparable properties in the area. However, many people mistakenly believe that common repair items will affect their taxes. While permits on new installations, substantial rehabilitation and remodeling such as kitchens or bathrooms do trigger reassessment inspections, the local tax commissioner's office in Milwaukee, Wisconsin, indicates that maintenance repair items rarely trigger such reviews. This argument is usually helpful only as a counter when the owner raises the issue, thus requiring the inspector to respond rather than initiate.

Argument #4: "Appeal to the fear of lawyers."

This argument is particularly relevant on safety-related issues. If someone is injured in a building, particularly rental units, one course of action taken by most lawyers is to check the department's files. If a compliance notice was sent stating that the condition existed before the accident and the owner knew about it but didn't repair the problem, it would spell big trouble. This is not fiction. Lawyers do routinely check building inspection files in cases involving property damage. This is especially true for steps, porches, guardrails, handrails, smoke detectors and any other similar hazards. Some insurance investigators also check records in an attempt to find a way not to pay a claim, among other things.

Argument #5: "Appeal to the sense of guilt."

This is particularly important in homeowner situations, although the argument may be applied in some rental situations as well. One example is: "If someone (e.g. a small child) was injured because of this violation, wouldn't you feel terrible if you knew about it and didn't repair it." The end image of a potential injury to small children is especially appealing and, unfortunately, too often true.

Argument #6: "It's a lot more dangerous than you think."

(An appeal to safety concern.) This is an argument appealing that there is greater danger in some code violations than is readily apparent. One example includes the use of gasoline or the storage of gasoline-powered equipment located indoors. It can be pointed out that there is usually an open flame at the hot water heater, gasoline is heavier than air, and an average basement is in the shape of a short cannon barrel. Some inspectors will reply: "I'll be you didn't know that a gallon of gasoline has the explosive power of 32 sticks of dynamite." The safety argument can also be used for missing balusters and handrails, where a child could slip through or fall. Reportedly, the bulk of injuries in homes are caused by falls; most of which can be prevented by handrails and their use.

Argument #7: "This weekend would be a good time to start."

This is not so much an argument as a technique used to focus the owner's thinking on a specific time and date for working on code violation repairs. If appropriate, it can be pointed out that the forecast is for good weather. This tends to bring the abstract code violation compliance concept to the forefront in terms of a specific time and place. Sometimes people need an initial push in making repairs to their homes. In this way, inertia is likely the strongest force to overcome.

Argument #8: "It's better that you put the money into the house than into a court fine."

This is a heavier approach and hopefully one that would not be used during the initial stages of an argument. This makes the concept of a court fine sound inevitable and no one likes to fight the inevitable or to choose the inevitable course when it can be avoided.

Argument #9: "If you don't believe me that the court treats these things seriously, ask Mr. A. at Y address."

This is a companion argument to number eight. Some inspectors cite examples of court cases where fines were levied. It is important to be accurate regarding names and addresses because this is where one's credibility can be measured by the owner. For example, a newspaper clipping about court cases can be helpful.

Argument #10: "Good guy/bad guy."

This is a classic technique used in sales and appears in different forms in various sales arenas. In the car sales approach, the sales person plays tag team with the manager, sometimes letting the manager make the actual closing. For inspections, argument can proceed like this: "Work with me on this. My supervisor is a real _____ and wants me to send the case to court, but I think that if I can show him that you are making progress, he will go along with me on an extension of

time for compliance." A variation on this technique is to reverse roles, with the supervisor being the good guy. The trick is to agree on it in advance. Caveat: Not everyone agrees with this tactic. Some point out that this may make inspectors appear divided, so in this case, the appropriate use of the extension policy can solve the problem.

Argument #11: "The false gift."

This is an argument appealing to everyone's sense of need to obtain a little something extra for nothing. In the inspection arena, the following argument holds: "I'm supposed to give you only 30 days to get this done, but if you give me your word on this, I can give you 60 days." The reality is that you may have the ability as an inspector to give as many as 90 days. The feeling that the owner receives is that he or she obtained something extra, and what the inspector received was a verbal assurance that the owner will keep his word.

While people's willingness to keep their word and the amount of their credibility varies from person to person, getting someone to say yes or acknowledging a commitment is also a technique used in sales. An adjacent argument is to combine this with the good guy/bad guy approach. For example, "I am putting my neck on the line for you on this one. The easiest thing for me to do would be to just put the case in for court action, but I think that we can find a way to work this out and avoid court."

Argument #12: "Avoid the reinspection fee."

This argument is only useful in jurisdictions where there is a reinspection fee. This appeals to an owner's willingness to avoid additional costs. The concept of hitting one in one's pocketbook or appealing to one's pocketbook is a most effective way to gain compliance. To illustrate the effectiveness of this approach, Anaheim, California instituted a reinspection fee granting one free inspection. As a result, the city projected a revenue increase of $42, 000 annually, but found that they collected less than half of that because people complied substantially earlier to avoid the fee.

Argument #13: "This is real and it isn't going to disappear."

Some owner's believe that if they simply ignore the compliance notice, inspectors will become frustrated, tired, and eventually leave and not return. If this occurs, it may be useful to explain that the problems are real, there is a system already in place for grinding these cases all the way to the municipal court and the problems are not going to disappear. Also, the compliance notices are all computerized and the computer doesn't forget.

Argument #14: "We're not just picking on you."

The appeal of the concept of equal protection runs strong and deep in this country. As any inspector with experience will attest, one of the first tactics of an owner with a history of code violations is: "Why aren't you dealing with all those other houses that have violations?" There are a variety of ways to address this subject. One is to state that inspectors work on a complaint basis, meaning if owners want to make a complaint, inspectors would be glad to respond to them. Secondly, if, in fact, there are code violations in other areas, if owners want to save inspectors some time they can go around and make a list of all the problems and give the list to inspectors who will add it to their list of inspections. Inspectors, however, will work on the more serious violations first. If the situation is appropriate, the response of "I will make a note of your concerns and check them out as soon as my workload permits" may be more applicable.

The worse response in this situation is "we will pick on whomever we want." In a democratic form of government, this is an argument that will cement the owner's position quickly, making inspectors an enemy rather than an ally. It is useful to make reference to current court actions or recent compliance on other similar violations in the immediate area.

Argument #15: "What you are asking me to do is to violate the law."

This is an argument that is useful when an owner essentially asks an inspector to ignore the situation or to write off compliance at less than an appropriate point. It is useful to point out that if the inspector did ignore the situation, he or she can be seriously reprimanded or fired, and the building owner could be referred to the district attorney's office. The follow up response is again, the appeal to the inevitability: "Why make this process more difficult and more complicated? Let's work on the solutions rather than work on digging yourself a deeper hole."

Argument #16: "Appeal to the desire to clear one's record."

Some owner's believe that it is very important not to have code violation convictions or, in some cases, not even to have code violations on their record. A typical response for this situation can be: "If you clear this up and get it corrected by "X" date, you will have a clear record with the department on this building; so if you ever have a problem in the future, you reputation for cooperation will work to your advantage."

Argument #17: "How would you like to live next to a place like this."

"If you neighbor's house looked like yours did, how would you feel?" is an argument appealing to one's sense of community and sometimes to one's sense of neighborhood peer pressure. This argument can take a variety of forms, but generally it appeals to one's sense of pride and self worth.

Argument #18: "Don't make me have to notify your insurance carrier."

This is an argument that is particularly applicable for commercial property with major inventory. If an owner refuses compliance and there is a fire hazard involved, insurance carriers look askance at such behavior. An owner may find the image of a building with no insurance coverage to be far more intimidating than the inspectors' threat of a court fine.

Argument #19: "The good repair clause."

Every mortgage contains a paragraph known as the good repair clause, which enables the mortgage company to enter and make repairs if the property is not maintained in good condition. Sometimes, there is the right to assign rents directly to the mortgage company to fund such repairs. In reality, the clause is rarely used by mortgage companies; however, it should be pointed out to the owner and that can be enough of a motivator.

There have been some situations where the neighbors have already used this approach by determining the mortgage holder of the rental property, and presenting their concerns to them via letter or, in some cases, protest marches. For rental property, owners who are actively buying and selling real estate, the relationship with their banker is extremely important. Sometimes, the mere threat of becoming involved in that type of relationship and making it known to the lender that the owner may be less than totally responsible in making code violation repairs can be a good motivator.

Argument #20: "Responding to I can't paint the house because I just got laid off."

Inspectors pointed out to Collins that they heard this argument more than once, but have successfully countered it by pointing out that this as the best time that they would have to complete the painting job. Inspectors sold the owners on the approach that they should buy the paint a bucket at a time, if necessary, and do the work while laid off from their jobs.

Argument #21: "If you don't make the repairs, the tenant can either abate rent or withhold rent."

Some owners are not aware of city rent withholding and state rent abatement laws. Providing the owner with a copy of the department's rent withholding brochure may motivate them if they believe further action taken may affect their flow of income from the property.

Argument #22: "I may have to send out a condemnation inspector."

Obviously, this argument applies only in very limited circumstances, but may produce repairs if the owner believes that there is a realistic chance of losing the entire building. In more extreme situations, this may backfire depending on the owner's tax situation. Demolition accelerates depreciation into one year. Depending on the need for passive or active tax losses, the owner may find it more desirable to have demolition occur. Reportedly, the reason has produced enough heat as to cause the ignition of a fire and the burning of some buildings.

Argument #23: "This one is so bad, I might have to placard it (order it vacated)."

Again, this argument has two sides – the threat of losing income and such threat can be viewed as an advantage by the owner wanting to evict certain tenants.

Argument #24: "Better tenant selection can help you avoid problems."

Some owner's problems are caused by poor tenants. While there are a certain percentage of tenants who are very destructive, an inspector's ability to point out sources of better tenants can assist the owner and, at the very least, undercut the argument. Some community groups can assist in this matter.

Argument #25: "If the mayor can paint, so can you."

This is an argument that only became effective several years ago. Milwaukee has a very positive, national reputation for fair and equal treatment. The fact that the Mayor's house was selected during the course of a geographic worse case first survey and was issued the same order to paint as any other citizen can be very helpful to an inspector. Owners stating that they shouldn't be made to paint because it is a free society and they can do whatever the hell they want with their buildings might be persuaded if an inspector points out that even the Mayor is not above the law and thus required to paint his house.

There are a series of general principles that can be applied when negotiating with an owner for compliance. Again, there are no universal truisms, only experience that the arguments can be applied in appropriate situations with effective results. Inspectors should make their positions clear without becoming hostile and avoid backing the owner into a corner. The latter is done by inspectors who believe that an immediate threat of legal action is the most effective, but, in reality, it often makes people "set their feet, become rigid and willing to fight the inspector based

on general principles" – a situation that can usually be avoided. Again, it is better to direct owners into a position rather than back them into a corner. Generally, inspectors should remain civil and possibly even cheerful. The old adage: "You get more with honey than you do with vinegar" applies. Obviously, there will be some points where taking a harder stand will be required. This is especially true in dealing with the experienced professionals in the real estate business, who tend to be more immune to any types of sales approach.

Inspectors should try to point out alternatives to their current course of action, including how others have complied or how compliance can be effectively accomplished while holding costs down to a minimum. In some situations, inspectors should point out any funding options that are available. There are only a few government loan programs offering low interest rates but those that do exist are a likely approach.

"A good inspector should make positive rapport with an owner a top priority" according to Paul Schultz, construction inspector of Milwaukee's Building Inspections Department. Schultz said an inspector can expect to find that an owner will be much more cooperative if he or she realizes that an inspector is primarily interested in compliance. While an inspector is acting as an advocate for the city, he or she is not unaware of the rights and welfare of an owner. The inspector should always make the field contact aware that a line of communication must be maintained. If an owner has an emergency, he or she should be able to call the inspector to make an adjustment. If the owner involved realizes that the inspector will be realistic about the problem, the owner, in most cases, will adopt a cooperative attitude.

As a token of good faith, the inspector should always leave a card with an owner for his or her use as a possible source of information or assistance in regard to the present code violation or any future difficulties that the owner may incur. A universal complaint from field contacts is that a person looking for information or help on the telephone is usually frustrated after being referred to numerous local agencies with no real resolution. If the inspector can make the field contact appreciate that if called he or she will solve the problem or help find a source to rectify the situation, the owner will likely be more cooperative in the future.

Generally, inspectors sell, not threaten. They should listen attentively to the owner's position. People become less willing to cooperate if it appears that they are not being treated as an individual. Sometimes listening can tell inspectors that the owner, while saying one thing, has other concerns in his mind that need to be addressed. This is usually one of saving face, which is a very important element that cannot be overlooked. Face saving can usually be accomplished by small extensions or giving in on the small points while winning the war on all the major fronts.

Inspectors should not talk down to owners because they will become resentful, thus making the conversation counterproductive. Acting as a heavy authority figure will also work against inspectors in most situations. The golden rule of thumb – treat others the way you would want to be treated – applies. At least in the beginning, inspectors should give owners the benefit of the doubt and eventually inspectors will learn who does and does not deserve such benefits.

If appropriate, allow owners to vent their frustrations even if they are not relevant to the code violation. The mere venting of frustration can usually give inspectors a clue as to what is on the owners' mind or why they refuse to comply. After an owner has vented his or her frustrations an agreement can often be reached. As any salesperson in the commercial sector can attest, it is far better and more effective to deal with a person on a face-to-face basis, rather than via mail. Telephone calls are the next best choice.

If an inspector is going to issue an order and he or she is dealing with an owner in person or through telephone contacts, the following technique can be applied: Tell the owner that a letter will be sent to him or her confirming what was mentioned. This will cushion the shock when the mail is opened and thus avoid having the owner feel as if the inspector snuck up on him or her. Finally, an appropriately dressed inspector can send the unspoken message of professionalism. Look in the mirror. Would you "buy" code enforcement from this person?

SAMPLE PERMIT WORDING

From time to time, planning boards and code enforcement officers are asked to approve a permit application or plan for a project which appears to comply with all of the municipality's ordinance dimensional requirements, including the required setback from side lot lines. An abutter raises a question about the project's compliance with the sideline setback, claiming that he has a professional boundary survey which shows the property line in a different spot then that shown on the application. The abutter asks that the application be denied. The Maine Supreme Court has held that local boards and officials have no authority to resolve title problems such as this, absent a provision in the ordinance to the contrary. *Rockland Plaza Realty Corp. v. Laverdiere's Enterprises Inc.,* 531 A.2d 1272 (Me. 1987). They must approve an application if there is substantial and credible evidence in the record to support a finding that the application complies with the ordinance. *Glasser v. Town of Northport,* 589 A.2d 1280 (Me. 1990). A permit application may only be denied for reasons related to the review criteria spelled out in the ordinance. *Portland Sand and Gravel, Inc. v. Town of Gray,* 663 A.2d 41 (ME. 1995). If an applicant cannot be persuaded to withdraw an application until a boundary dispute or similar title problem has been resolved, the board or official issuing the permit should incorporate language similar to the following in the permit:

"This permit is approved on the basis of information provided by the applicant in the record regarding his ownership of the property and boundary location. The applicant has the burden of ensuring that he has a legal right to use the property and that he is measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor does this permit approval constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership or similar title issues. The permit holder would be well-advised to resolve any such title problems before expending money in reliance on this permit."

If the board or code enforcement officer wants to ensure that an approved project will be developed exactly as depicted on the plan and other documents accompanying the application, language similar to the following should be included I the decision to approve the plan:

The board/CEO approves the development proposal submitted the (applicant's name) as described in his application dated (_____), including all depictions on the accompanying plan and other attachments. Except to the extent that the Board/CEO has expressly indicated in this decision that certain depictions may be revised by the applicant without further review and approval by the Board/CEO, any changes to the plan and attachments must receive prior approval by the Board/CEO including but not limited to changes in the proposed location of structures, roads, wells, and subsurface disposal systems or method of waste disposal.
(By R.W.S)

Note: The opinions printed above are written with the intent to provide general guidance as to the treatment of issues or problems similar to those state in the opinion. The reader is cautioned not to rely on the information contained therein as sole bases for handling individual affairs but he/she should obtain further counsel and information in solving his own specific problems.