AGENDA
Cumberland Town Council Meeting
Town Council Chambers
MONDAY, March 26, 2018
6:00 P.M. Workshop
7:00 P.M. Call to Order

I. 6:00 P.M. WORKSHOP with the Ordinance Committee to review ordinance amendments

II. CALL TO ORDER

III. APPROVAL OF MINUTES
March 12, 2018

IV. MANAGER’S REPORT

V. PUBLIC DISCUSSION

VI. LEGISLATION AND POLICY

18 – 033 To hold a Public Hearing to consider and act on forwarding a Contract Zone Agreement for John Paynter, 445 Greely Road Extension, to the Planning Board for a Public Hearing and recommendation.

18 – 034 To consider and act on authorizing the Town Manager to accept a warranty deed for Theresa and Robert Chamard for property located on George Road, Tax Map U20/Lot 19.

18 – 035 To hold a Public Hearing to consider and act on a Mass Gathering Permit application for Girls On the Run 5K to be held on June 3, 2018 from 8:00 a.m. to 1:00 p.m. at the Cumberland Fair Grounds.

18 – 036 To hold a Public Hearing to consider and act on a Mass Gathering Permit application for the Zerbini Family Circus to be held on July 27, 2018 from 8:00 a.m. to 10:00 p.m. at the Cumberland Fair Grounds.

18 – 037 To hold a Public Hearing to consider and act on amendments to Chapter 30 (Boards and Commissions) of the Cumberland Code, as recommended by the Ordinance Committee.

18 – 038 To hold a Public Hearing to consider and act on amendments to Chapter 48 (Coastal Waters) of the Cumberland Code, as recommended by the Ordinance Committee.

18 – 039 To hold a Public Hearing to consider and act on amendments to Chapter 162 (Mass Gatherings) of the Cumberland Code, as recommended by the Ordinance Committee.

18 – 040 To hold a Public Hearing to consider and act on forwarding to the Planning Board for a Public Hearing and recommendation, amendments to Chapter 229 (Site Plan Review) of the Cumberland Code, as recommended by the Ordinance Committee.

18 – 041 To hold a Public Hearing to consider and act on forwarding to the Planning Board for a Public Hearing and recommendation, amendments to Chapter 226 (Shoreland Zoning) of the Cumberland Code, as recommended by the Ordinance Committee.

18 – 042 To hold a Public Hearing to consider and act on amendments to Chapter 84 (Fees and Fines), Section 12 (Moorings) of the Cumberland Code, as recommended by the Coastal Waters Commission.

18 – 043 To consider and act on a historical sign request on Town Landing Road.
VII.  **NEW BUSINESS**  
FY19 Municipal Budget Public Hearing on April 9th

VIII. **ADJOURNMENT**
5:30 P.M. Finance Committee Budget Workshop

6:30 P.M. Workshop with Assessor re: Property Audit and Current Ratio Status

7:00 P.M. Call to Order

Present: Councilors Bingham, Copp, Edes, Gruber, Stiles, Storey-King and Turner

I. APPROVAL OF MINUTES

Motion by Councilor Gruber, seconded by Councilor Copp, to accept the February 26, 2018 meeting minutes as presented.

VOTE: 6-0-1 (Bingham abstained) MOTION PASSES

II. MANAGER’S REPORT

Town Manager Shane thanked our Public Works crew for all the hard work and tireless hours that they put in during the recent snowstorms.

III. PUBLIC DISCUSSION

Cathy Wright of 60 Skillin Road asked the status of the proposed light at Skillin Road and Route 100 and the left turn lane at Main Street and Blanchard Road.

Town Manager Shane said that we are still waiting to hear from MDOT. It may take a couple more months to hear back for these requests.

Mrs. Wright said that rather than extending the sidewalk from Town Hall to Twin Brook, she would rather see sidewalks from the bottom of Morrison’s Hill up toward Blackstrap Road. She would also like to see the Town consider getting access to Forest Lake for kayaking and canoeing.

IV. LEGISLATION AND POLICY

18 – 025 To hear a report from the Assessor re: Property Audit and Current Ratio Status.

Assessor, John Brushwein presented the following:

Town of Cumberland

Assessment Ratio and Property Audit Presentation
Town Council Meeting
March 12, 2018

Maine Constitutional and Statutory Requirements

- Constitutional Requirement – Article IX, Section 8 – “All taxes upon real and personal estate, assessed by the authority of this State shall be apportioned and assessed equally according to the just value thereof.” (The Law Court has established that Just Value is synonymous with Fair Market Value)

- Statutory Requirement – Annual Sales Ratio Studies
Ratio Study Purpose

- The assessment ratio study is used by the State to adjust all municipal entities to 100% annually. The 100% valuation is then used in calculating State Aid for Education, State Revenue Sharing, and County funding.
- Municipalities may certify within 10% of the developed parcel ratio.
- The certified ratio must then be applied to all exemptions, and to the rates for properties enrolled in Current Use programs, such as tree growth.

Maine Assessment Standards

- Minimum Assessment Ratio = 70%
  Assessed Value/Sale Price = Assessment Ratio
- Maximum Assessment Ratio = 110%
- Maximum Level of Assessment Quality = 20 (Quality Rating)

Sales Ratio Study Terms

- Assessment Ratio = Assessed Value/Sale Price
- Average Ratio = Average of all Assessment Ratios in a Sales Analysis
- Deviation = Difference of individual ratio from the average Assessment Ratio
- Quality Rating = Average Deviation/Average Ratio

Assessment Ratio & Deviation

- Property assessed at $300,000 sells for $330,000
- Assessment Ratio = $300,000/$330,000 or 91%
- Current Average Ratio is 94% (Total up ratios in sample and divide by the number in the sample)
- Deviation = Average Ratio less individual ratio (94-91) or 3%
- Quality Rating = average deviation /average ratio
  7.84/94 = 8.34

Cumberland Overall Ratio Analysis

- 2016 Average Ratio = 102% with 159 qualified sales
- 2016 Quality Rating = 8
- 2017 Average Ratio = 96% with 159 qualified sales
- 2017 Quality Rating = 9
- 2018 Average Ratio = 94% with 192 qualified sales
- 2018 Quality Rating = 8

Stratified Sales Ratio Analysis

- West Cumberland - AVG Ratio – 92%
  Quality Rating – 6
- Cumberland Center - AVG Ratio – 90%
  Quality Rating – 9
- Cumberland Foreside - AVG Ratio – 99%
  Quality Rating – 6
- Condominiums - AVG Ratio – 94%
  Quality Rating – 8
Assessment Ratio Results

- The most recent Assessment Ratio of 94% in the developed parcel analysis and Quality Rating of 9 are well within State Standards and indicative of a high level of overall assessment equity.

- The sale of land only parcels does not have a large enough sample upon which to draw a reliable statistical conclusion.

Property Audit

- The most recent valuation update took place in 2008 consisting of a land and building schedule market adjustment. It did not include a full measure/list inventory of all real estate accounts.

- During the past two years it has become apparent that the real estate inventory (current tax database) is not completely accurate. Inspections for new construction and a review of past building permits has revealed omissions and other errors.

Inventory Errors/Omissions

- Additions, finished basements, decks-porches, and outbuildings have been discovered to have either been not included in assessments and/or in some cases, included after having been removed or demolished.

- Current lending practices have resulted in increased scrutiny of permitting records which has led to After the Fact permits being obtained to legitimize construction that took place without permits.
To hold a Public Hearing to consider and act on a Mass Gathering Permit for the Combat Veterans Motorcycle Association Maine 17-1 (The Crossroads Chapter) Rock, Ride & Remembrance event on August 11, 2018 from 1:00 p.m. to 10:30 p.m.

The Public Relations Officer of the Veterans Motorcycle Association outlined the events that they are planning: a motorcycle charity ride, a classic car cruise-in, and a concert with 2 bands. There will be food and drink vendors and the event will be open to the public. All proceeds will go to help Maine veterans.

Chairman Edes opened the Public Hearing.
Public discussion: None
Chairman Edes closed the Public Hearing.

Town Manager Shane said that this is a well-organized event and staff is recommending approval.

Motion by Councilor Gruber, seconded by Councilor Bingham, to approve the Mass Gathering permit for the Combat Veterans Motorcycle Association Maine 17-1 (The Crossroads Chapter) Rock, Ride & Remembrance event on August 11, 2018 from 1:00 p.m. to 10:30 p.m.

VOTE: 7-0 UNANIMOUS
To authorize the Town Manager to solicit appraisal proposals for the purchase of remaining 50 (+/-) acres of Rines Forest.

Town Manager Shane explained that the Town has the right of first refusal on the remaining 50 acres of land in the Rines Forest. The right of first refusal will expire on August 1, 2019 and Mr. Rines has asked the Town if we are interested in purchasing the property. If we are, the first step is to get an appraisal of the parcel. The Chebeague and Cumberland Land Trust has reached out and said that they would like to help with the purchase by fundraising and paying for half of the appraisal. This item is only to authorize the appraisal.

Councilor Turner said that he is not in favor of the Town purchasing any more land. He is hopeful that the Land Trust could pay for the majority of this.

Councilor Stiles said that this piece would complete the Rines Forest. The Rines Forest is used for hunting and if this last parcel ends up with houses on it, the hunting area would be severely diminished. He wants to see what the appraisal price comes back at. He is grateful that the Land Trust has offered to help with the purchase.

Councilor Copp said that he agrees with Councilor Turner. Do we really need this? He has spoken to a lot of residents who complain about the cost of their property taxes. He is in favor of getting the appraisal.

Councilor Storey-King said that she will support getting the appraisal, but is not necessarily in favor of buying any more Town-owned land. She would consider it if we could sell some of the land that we currently own.

Councilor Gruber said that he is very involved with the Lands and Conservation Commission and the Land Trust. He is leaning toward being in favor of the purchase.

Councilor Bingham said that he feels that this will complete the Rines Forest and he does not believe that we would be generating a significant amount of tax revenue if it were developed. He wants to see what the appraisal comes back at. It is also helpful that the Land Trust has offered their assistance and we can pay for this over 4 years.

Motion by Councilor Bingham, seconded by Councilor Gruber, to authorize the Town Manager to obtain an appraisal for the 50 (+/-) acres of Rines Forest, not presently owned by the Town, and to develop a proposal, financing plan and a draft Purchase and Sale Agreement for consideration by the Town Council at a future public hearing.

VOTE: 7-0 UNANIMOUS

To hold a Public Hearing to consider and act on a Liquor License application for Rachel’s On the Green from March 29, 2018 to March 29, 2019.

Town Manager Shane said that the application is complete and staff is recommending approval.

Chairman Edes opened the Public Hearing.
Public discussion: None
Chairman Edes closed the Public Hearing.

Motion by Councilor Stiles, seconded by Councilor Bingham, to approve the Liquor License application for Rachel’s On the Green from March 29, 2018 to March 29, 2019.

VOTE: 7-0 UNANIMOUS
To appoint William Longley as Code Enforcement Officer from April 1, 2018 to March 31, 2019.

Motion by Councilor Copp, seconded by Councilor Stiles, to appoint William Longley as Code Enforcement Officer from April 1, 2018 to March 31, 2019.

VOTE: 7-0 UNANIMOUS

To authorize the Town Manager to execute an easement deed with Fred Kinney for the Blanchard Road pump station through March 2027.

Town Manager Shane explained that we have water in West Cumberland because of this pump station. Mr. Kinney has continued to work with the Town by allowing this pump station on his property. This action will continue our current arrangement with Mr. Kinney through March 2027.

Motion by Councilor Stiles, seconded by Councilor Bingham, to authorize the Town Manager to execute an easement deed with Fred Kinney for the Blanchard Road pump station through March 2027.

VOTE: 7-0 UNANIMOUS

To hear a recommendation from the Ordinance Committee regarding the upcoming Conservation Subdivision Ordinance.

Councilor Storey-King explained that the Conservation Subdivision Committee has been very hard at work and has a workshop planned for next week with the Planning Board. She met with the Town Manager and Planning Board Chairman and it was decided that the Planning Board will hold a Public Hearing on the Conservation Subdivision Ordinance and then forward it to the Council with a recommendation.

To set a Public Hearing date of March 26th to consider and act on forwarding a Contract Zone Agreement for John Paynter, 445 Greely Road Extension, to the Planning Board for a Public Hearing and recommendation.

Motion by Councilor Bingham, seconded by Councilor Stiles, to set a Public Hearing date of March 26th to consider and act on forwarding a Contract Zone Agreement for John Paynter, 445 Greely Road Extension, to the Planning Board for a Public Hearing and recommendation.

VOTE: 7-0 UNANIMOUS

V. NEW BUSINESS

Councilor Bingham – Arthur Butler passed away recently. He was the former MSAD 51 Transportation Director. Condolences to his family.

Councilor Gruber – He attended the State of Maine Conservation Commission annual meeting with a few members of our own Lands and Conservation Commission members. This community has really accomplished a lot over the past few years in regard to our conservation efforts.

Councilor Storey-King – The Ordinance Committee met recently to review the Mass Gathering Ordinance, the Lands & Conservation and Coastal Waters Ordinances.

She met with Kristina Egan of the Greater Portland Council of Governments last week. They are looking for a nomination of a community member to sit on a “Purple” Regional Voice Committee who will advocate for regional funding for roads and infrastructure. The committee’s first goal is to
create a briefing book for the candidates running for governor and to host a forum in the fall for the candidates.

Councilor Copp – He asked the Town Manager how much the Town has spent on road salt this year. He wants the public to be aware. Town Manger Shane responded $120,000.

Chairman Edes – None

Councilor Stiles – He urged everyone to donate to the 4-H auction to benefit the food pantry. If 1,000 residents of Cumberland and North Yarmouth donate just $10, he will reach his goal of $10,000. He thanked the Council members for their continued support and donations to this worthy cause.

Councilor Turner – None

VI. ADJOURNMENT
Motion by Councilor Gruber, seconded by Councilor Copp, to adjourn.
VOTE: 7-0 UNANIMOUS
TIME: 8:20 P.M.

Respectfully submitted by,

Brenda L. Moore
Council Secretary
ITEM
18-033

To hold a Public Hearing to consider and act on forwarding a Contract Zone Agreement for John Paynter, 445 Greely Road Extension, to the Planning Board for a Public Hearing and recommendation
MEMORANDUM

TOWN OF CUMBERLAND, MAINE
290 TUTTLE ROAD
CUMBERLAND, MAINE 04021
TEL: 207-829-2205  FAX: 829-2224

To: Steve Moriarty, Chairman of the Planning Board
From: William R. Shane, Town Manager
Date: March 6, 2018
Re: Paynter CZA

In December 2017, the Town Council approved the purchase of the remaining land around Knight’s Pond. The purchase was a combination of a gift letter for tax proposes and annual payments over 10 years. In order to complete this purchase, the Town Council will need to authorize a Contract Zone Agreement because the current configuration of John’s property on his lot would not allow the sale of existing land consistent with his possible development plans for the future.

A Contract Zone Agreement (CZA) would allow existing structures to remain in place. Those structures would be identified on a plan and would be part of the CZA requirement. The CZA is specific to setbacks to existing structures only. No other density bonuses or changes to the underlying zoning requirements of the RR 2 district would be allowed.

A copy of the signed P&S, survey plan and CZA are attached. We will follow the neighborhood meeting at 6 PM with a Council / Planning Board Workshop at 6:30 PM. Where this is truly about a setback to two existing storage buildings on his property, I don’t expect a lot of concern with the CZA, as the public benefit is connecting the final piece of this amazing property in Cumberland. The 21 acre conveyance will ultimately be encumbered with a Conservation Easement as is the rest of the Knight’s Pond Preserve.
UNCHED AND SALE AGREEMENT

THIS AGREEMENT is made as of January 12, 2018 (the "Effective Date"), by and between JOHN W. PAYNTER, an individual with a mailing address of 445 GREENLY RD. EXT. CUMBERLAND, ME. 04021 ("Seller"), and the Town of Cumberland, a municipal corporation organized and existing under the laws of the State of Maine, with a mailing address of 290 Tuttle Road, Cumberland, Maine 04021 ("Buyer").

1. Purchase and Sale. Subject to the terms and conditions of this Agreement, Seller agrees to sell and convey and Buyer agrees to purchase the following property (collectively referred to herein as the "Premises”):

   Approximately 24.9 acres, being a portion of a certain lot or parcel of land on the Northeasternly side of Greely Road Extension, but not adjacent thereto, in the Town of Cumberland, County of Cumberland, State of Maine, including any improvements thereon, as shown on a plan entitled "Land Procurement, 24.9 Acres to Town of Cumberland from John Paynter, Cumberland, Maine" dated October 24, 2017 and prepared by Boundary Points Professional Land Surveying, LLC. Being a portion of the premises described in a deed from James W. Smith and Patricia B. Smith to John W. Paynter dated March 17, 2004 and recorded in Cumberland County Registry of Deeds in Book 20996, Page 303.

2. Purchase Price. The Purchase Price for the Property is Ninety Thousand Dollars ($90,000.00) (the "Purchase Price"), payable to Seller pursuant to the terms of a promissory note to be delivered at Closing (defined hereafter). The promissory note will provide that Buyer shall make payments to Seller of the principal amount of Ninety Thousand Dollars ($90,000.00), in one hundred twenty (120) successive monthly payments of principal in the amount of Seven Hundred Fifty Dollars ($750.00) each, together with all interest then accrued on the unpaid principal outstanding from time to time at the rate of Five Percent (5.0%) per annum, all as set forth in the payment schedule attached as Exhibit A to the promissory note.

   The Buyer intends for this transaction to qualify as a bargain sale, and the Buyer shall have the right, at his expense, to have the Premises appraised prior to Closing if the Buyer so chooses.

3. Adjustments and Costs. The following items shall be prorated, adjusted, and paid as follows:

   (a) All applicable real estate taxes, utility charges and other charges and assessments affecting the Premises shall be apportioned between Seller and Buyer as of the Closing Date (as defined below). Seller shall be responsible for all such items for the period prior to and including the Closing Date.

   (b) Each party shall pay one-half of the Maine real estate transfer tax, if applicable.
(c) Each party shall pay all costs and expenses incurred by such party in connection with the transactions contemplated by this Agreement not adjusted as set forth in this Section or otherwise provided for in this Agreement.

4. Title. Seller shall convey the Premises to Buyer by Warranty Deed (the “Deed”). Buyer shall be responsible for the cost of any title insurance premium imposed in connection with any title insurance policy issued to Buyer.

5. Due Diligence Deliverables. Within ten (10) days of the Effective Date, Seller shall provide Buyer with copies of any and all surveys, title insurance policies, environmental reports, leases, and other contracts, if any, pertaining to the Premises.

6. Buyer’s Contingency. Buyer’s obligations under this Agreement are subject to the following contingencies, which, if not met after good faith efforts, shall entitle either party to terminate this Agreement by giving the other written notice of termination prior to the expiration of the time period specified, in which event neither party shall be under any further obligations under this Agreement:

(a) The approval and ratification of this Agreement by the Cumberland Town Council. The date of such approval and ratification shall be referred to as the “Approval Date,” and is expected to occur on or before MARCH 1, 2018.

(b) Buyer or its agent conducting an inspection of the physical condition of the Premises, including environmental conditions, which inspection shall have results acceptable to Buyer, in its discretion, within fifteen (15) days from the Approval Date.

(c) Buyer or its agent conducting an inspection of the condition of the title to the Premises, including but not limited to access, easements, restrictions, and covenants, which review shall have results acceptable to Buyer, in its discretion.

After the Approval Date, Buyer and its agents shall have the right to enter upon the Premises at reasonable times and after reasonable prior notice to Seller to undertake such inspections. Any such entry shall be at Buyer’s own risk.

7. Seller’s Contingency. Seller’s obligations under this Agreement are subject to Seller obtaining approval from the Town of Cumberland of a proposed contract zoning agreement acceptable to Seller. If such approval cannot be obtained after good faith efforts, Seller may terminate this Agreement by giving Buyer written notice of termination prior to Closing, in which event neither party shall be under any further obligations under this Agreement.

8. Further Encumbrances. Seller covenants and agrees with Buyer that between the Effective Date and the Closing, Seller shall not voluntarily dispose of any interest in the Premises, enter into any new leases affecting the Premises, or enter into any other agreement relating to the Premises that would survive the Closing contemplated
9. Closing.

(a) The consummation of the transactions contemplated hereby (the “Closing”) shall take place at the office of Buyer’s attorney or title company on a mutually convenient date on or before April 1, 2018 (the “Closing Date”).

(b) Possession of the Premises shall be delivered to Buyer at Closing free and clear of all leases, tenancies, or other third party rights of possession.

(c) The following shall occur at the Closing, each being a condition precedent to the others and all being considered as occurring simultaneously:

(i) Seller shall execute, have acknowledged, and deliver to Buyer the Deed;

(ii) Seller shall execute and deliver to Buyer an affidavit indicating that Seller is not a foreign person within the meaning of 26 U.S.C. § 1445, or in lieu thereof, Buyer shall be entitled to withhold and account for a portion of the Purchase Price as required by law unless another exemption applies;

(iii) Seller shall execute and deliver to Buyer an affidavit indicating that Seller is a Maine resident, or in lieu thereof, Buyer shall be entitled to withhold and account for a portion of the Purchase Price as required by law unless another exemption applies;

(iv) Seller shall execute and deliver to Buyer usual and customary title affidavits as required by Buyer’s title insurance company;

(v) each party shall execute and deliver to the other a settlement statement in form and substance reasonably acceptable to the parties;

(vi) Buyer shall approve and execute the contract zoning agreement referenced in Paragraph 7 hereof, and deliver to Seller a copy of the same; and

(vii) each party shall deliver to the other such other documents as may be required herein or as may be necessary to carry out the obligations under this Agreement.


(a) Risk of loss to the Premises prior to the Closing shall be on Seller. If between the Effective Date and the Closing any material portion of the Premises is damaged by fire or other casualty, Buyer shall have the right to
Untitle
terminate this Agreement by giving written notice to Seller on or before the Closing
Date.

(b) If Buyer does not elect to terminate this Agreement pursuant to
Section 9(a), Seller and Buyer shall perform their respective obligations under this
Agreement and Seller shall (i) deliver to Buyer at the Closing any insurance
proceeds or condemnation awards actually received by Seller as a result of any
occurrence specified in Section 9(a) with respect to or allocable to the Premises;
and (ii) assign to Buyer all of Seller’s right, title, and interest in and to any
insurance proceeds and condemnation proceeds allocable to the Premises which have
not yet been received by Seller on the Closing Date, provided, however, that Seller
shall in all events be entitled to retain any such proceeds to the extent the same
exceed the Purchase Price.

11. Remedies.

(a) If the purchase and sale of the Premises is not consummated in accordance
with the terms and conditions of this Agreement due to default or breach on the part
of Buyer, Seller’s sole remedy shall be to terminate this Agreement.

(b) If the purchase and sale of the Premises is not consummated in
accordance with the terms and conditions of this Agreement due to default or breach
on the part of Seller, Buyer’s sole remedy shall be to terminate this Agreement.

12. Notices. Any notice relating in any way to this Agreement shall be
in writing and shall be hand delivered, or sent by registered or certified mail,
return receipt requested, or sent by recognized overnight courier service which
provides evidence of delivery (such as FedEx) addressed to the party to receive such
notice at the address set forth for such party in the first paragraph of this
Agreement, and such notice shall be deemed delivered when so delivered by hand, or
when so posted or when so deposited with such overnight courier. Either party may,
by such manner of notice, substitute persons or addresses for the giving of notices
under this Agreement.

13. Seller’s Representations. Seller represents and warrants to Buyer
that:

(a) Seller has the legal right, power and authority to enter into this
Agreement and to perform all of his obligations hereunder, and the execution and
delivery of this Agreement and the performance by Seller of his obligations
hereunder will not conflict with any agreement to which Seller is a party or by
which Seller is bound;

(b) Seller has good and marketable title to the Property, and there are no lawsuits
or other proceedings currently pending by or against the Seller or the Property that
would affect the ownership, future development, ability to finance or enjoyment of
any of the Property; and

(c) Seller has not generated, released, stored, disposed of, dumped, flushed or in any way introduced on to the Property oil, hazardous material, hazardous waste or hazardous substances (hereinafter collectively called “Hazardous Substances”) as those terms are defined by any applicable federal, state or local law, rule or regulation (hereinafter referred to as “Applicable Environmental Laws”), and Seller has not received notice and is not otherwise aware of any incident which would have required the filing of notice or notification pursuant to any Applicable Environmental Laws applicable to the Property.

It shall be a condition of Buyer’s obligation to close under this Agreement that these representations and warranties made by Seller hereunder are true, both as of the date hereof and as of the Closing, and Seller shall take all reasonable actions required to make the foregoing representations true.

14. Brokers. Seller and Buyer warrant and represent to each other that they have not employed or engaged any real estate broker or agent in connection with the transaction contemplated by this Agreement. Each party agrees to hold the other party harmless from and against any and all costs, expenses, claims, losses, or damages, including reasonable attorneys’ fees, resulting from a breach of such party’s representation or covenant contained in this Section. The provisions of this Section shall survive the Closing.

15. Miscellaneous.

(a) Any reference herein to time periods of less than seven days shall be computed to exclude Saturdays, Sundays, and legal holidays, and any time period provided for herein which ends on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m. of the next business day.

(b) This Agreement shall be binding upon and shall inure to the benefit of Seller and Buyer and their respective heirs, personal representatives, successors and assigns. Buyer may assign this agreement to an agency or entity owned or controlled by Buyer.

(c) All understandings, agreements, warranties and representations, either oral or in writing, heretofore between the parties hereto are merged into this Agreement. This Agreement fully and completely expresses the parties’ agreement with respect to the transactions covered hereby. This Agreement may not be modified in any manner except by an instrument in writing signed by Seller and Buyer.

(d) This Agreement shall be governed by and interpreted in accordance with the laws of the State of Maine without regard to or application of its conflicts of law principles. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which, taken together, shall constitute a single instrument.
(e) In the event of a dispute arising out of or related to this Agreement, directly or indirectly, the substantially prevailing party shall be entitled to recover its reasonable attorney's fees and costs (including paralegal fees) related to said dispute and the enforcement of any judgment related thereto.

(signatures on following page)

IN WITNESS WHEREOF, the parties have executed this Purchase and Sale Agreement as of the Effective Date.

SELLER:

[Signature]

John W. Paynter  Jan, 12 2018

BUYER:

IN WITNESS WHEREOF, the parties have set their hands and seals as of the date first written above.

THE TOWN OF CUMBERLAND

[Signature]

By William Shane
Its Town Manager

[Signature]

Witness
19.6 Acre +/- offer from John Paynter 2017
19.6 Acre +/- offer from John Paynter 2017
CONTRACT ZONE AGREEMENT

This Contract Zone Agreement made this ___ day of __________, 2018, by and between the TOWN OF CUMBERLAND, a municipal corporation ("Town"), of the County of Cumberland and State of Maine, and JOHN W. PAYNTER, an individual with a mailing address of 445 Greely Road Ext., Cumberland, Maine ("Paynter").

W I T N E S S E T H:

WHEREAS, Paynter owns certain property located at 445 Greely Road Ext. in Cumberland, referenced as Lot 29 of the Town of Cumberland Tax Map R06 (hereinafter the “Property”), and wishes to convey a portion of the Property to the Town for open space and recreation purposes, as well as subdivide another portion of the Property for future residential development; and

WHEREAS, the portions of the Property to be conveyed to the Town and to be subdivided for residential purposes are proposed to be accessed by a Private Way to be constructed from Greely Road Extension running in a northeasterly direction along the southerly boundary of the Property; and

WHEREAS, Paynter currently occupies a residential dwelling unit on the Property, which includes accessory structures (a shed and garage) that would not conform to the setback requirements of the proposed Private Way; and

WHEREAS, Title 30-A § 4352 of the Maine Revised Statutes permits conditional/contract rezoning in regard to conditions which relate to the physical development or operation of property; and

WHEREAS, Section 315-78 of the Cumberland Code also authorizes the same;
NOW THEREFORE, pursuant to the aforesaid provisions, the Cumberland Town Council seeks to advance the desired land use objectives set forth herein and finds this Contract Zoning Agreement is (a) consistent with the Comprehensive Plan duly appointed by the Town of Cumberland; (b) establishes a contract zone consistent with the existing permitted uses in the original zone of the area involved; (c) only includes conditions and restrictions which relate to the physical development of this site; (d) imposes such conditions and restrictions as are necessary and appropriate for the protection of the public health, safety, and general welfare of the Town of Cumberland; and (e) the land use objective sought herein further a desired public purpose or benefit.

THE PARTIES AGREE AS FOLLOWS:

1. **Site:** The Town hereby agrees that the Property as shown on Exhibit A hereto shall be deemed a contract zone pursuant to the provisions of 30-A M.R.S.A. § 4352(8) and Section 315-79 of the Cumberland Code (hereinafter referred to as the “Paynter Contract Zone”).

2. **Lot Standards Within the Zone:** Development permitted within the Paynter Contract Zone established above shall be consistent with all requirements of the Rural Residential District 2 (RR2). However, following the conveyance of a ____ acre parcel to the Town to be used for open space and recreation purposes around Knight’s Pond (hereinafter the “Town Parcel”), the setback requirements of the RR2 shall not apply to existing non-conforming structures in place as of the date of this Agreement and as shown on Exhibit A hereto. In the event existing non-conforming structures are removed for any reason, they may only be rebuilt in conformance with the then applicable setbacks for front, rear and side yards in the underlying RR2 District. All other applicable lot standards, ordinance provisions, and building codes shall be enforced with regard to all future development or construction within the Paynter Contract Zone.

3. **Consideration:** Paynter shall convey to the Town the fee to the Town Parcel as shown on Exhibit B for use as an open space and recreation area around Knight’s Pond.
4. **Further Assurances:** Until this Contract is effective and properly implemented, the parties agree to negotiate in good faith the terms and conditions of such further instruments and agreements as may be reasonably necessary from time to time to implement this Contract.

5. **Maine Agreement:** This Contract Zone Agreement is a Maine agreement entered into pursuant to the laws of the State of Maine and shall be enforced in accordance with the same.

6. **Binding Covenants:** The above stated restrictions, provisions and conditions are an essential part of this Contract and shall run with the Property and bind the parties, and their respective successors, heirs and assigns, or any party in possession or occupancy of the Property or any part thereof, and shall inure to the benefit of and be enforceable by the Town.

7. **Recording:** A true copy of this Contract shall be recorded in the Cumberland County Registry of Deeds.

8. **Severability:** If any one or more clauses of this Contract is held to be void or unenforceable, such clause or clauses shall deem to be severable and the remainder of this Contract shall be deemed to be valid and in full force and effect.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Contract the day and year first above written.

WITNESS

TOWN OF CUMBERLAND

3
By:  
William R. Shane  
Its Town Manager

John W. Paynter  

State of Maine  
County of Cumberland, ss.  

Then personally appeared the above-named William R. Shane, Town Manager of the Town of Cumberland and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of Town of Cumberland.

Before me,

Attorney at Law/Notary Public  
Printed Name:  
Commission expires:

STATE OF MAINE  
County of Cumberland, ss.  

Then personally appeared the above-named John W. Paynter and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Attorney at Law/Notary Public  
Printed Name:  
Commission expires:
ITEM 18-034

To consider and act on authorizing the Town Manager to accept a warranty deed for Theresa and Robert Chamard for property located on George Road
WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS, that THERESA I. CHAMARD and ROBERT A. CHAMARD, individuals with a mailing address of 207 Longfellow Street, Westbrook, Maine 04092, for consideration paid, grant to the TOWN OF CUMBERLAND, a municipal corporation organized and existing under the laws of Maine, with a mailing address of 290 Tuttle Road, Cumberland, Maine 04021, with WARRANTY COVENANTS, certain real estate located on the southwesterly side of George Road in the Town of Cumberland, County of Cumberland and State of Maine, as identified on the Town of Cumberland Tax Maps as of the date hereof as Map U20, Lot 19, together with any and all easements, rights-of-way and other rights appurtenant thereto.

Meaning and intending to convey and hereby conveying all of the premises conveyed to Theresa I. Chamard and Robert A. Chamard by Theresa I. Chamard by deed dated November 15, 2012, and recorded in the Cumberland County Registry of Deeds in Book 30137, Page 165.

IN WITNESS WHEREOF, Theresa I. Chamard and Robert A. Chamard have caused this instrument to be executed this ______ day of __________________, 2018.

WITNESS:

__________________________
Theresa I. Chamard

__________________________
Robert A. Chamard

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

__________________________, 2018

Then personally appeared before me the above-named Theresa I. Chamard and Robert A. Chamard and acknowledged the foregoing instrument to be their free act and deed.

__________________________
Notary Public/Attorney at Law
Print Name____________________
My Commission Expires_______
ITEM 18-035

To hold a Public Hearing to consider and act on a Mass Gathering Permit application for Girls On the Run 5K to be held on June 3, 2018 from 8:00 a.m. to 1:00 p.m. at the Cumberland Fair Grounds
MEMORANDUM

To: William Shane, Town Manager

From: Tamara O’Donnell, Town Clerk

Re: Girls on the Run-Maine

A meeting was held at 10:00 a.m., on Tuesday, February 27, 2018, with Interim Police Chief Rumsey, Lt. Dave Young, Town Manager Shane, Deputy Clerk Eliza Porter, Fire Chief Dan Small and Mike Timmons, Cumberland Farmer’s Club President.

I reviewed in detail the requirements of the Mass Gathering Ordinance. The following represents our mutual understanding:

- This event is a 5K race for girls grades 3-5 and their families and supporters.
- Exact attendance levels are unknown, however, it is estimated to be between 1500-1800.
- Chief Small will have 2 EMT’s for a 2 ½ hour window during the actual racing dedicated coverage at this event.
- No admittance or parking fee will be charged, and all parking will be on the fairgrounds. Volunteers from the Cumberland Farmer’s Club will be handling the parking.
- The event will be held Sunday, June 3, 2018.
- The hours are 6 a.m.-1 p.m.
- Communication between parties will be by two way radio and cell phone.
- A copy of the event insurance coverage is attached to the application.

The Town fees for this event are listed below:

$250.00 - Mass Gathering Fee
$160.00 - Fire Dept.

I believe we have covered all areas related to the Mass Gathering Permit application. It is my hope that this event will be very successful and well managed. I hope the weather cooperates and they have a wonderful turnout. Thank you.
TOWN OF CUMBERLAND

Mass Gathering Application-Minor Large Outdoor Event
(500-4,999 persons)

This application must be filed with the Town Clerk not less than 60 days before the date of the event. Application must be accompanied by a non-refundable fee of $250.00.

Name of Applicant: Girls on The Run

Address of Applicant: 980 Forest Ave. Suite 206, Portland, ME 04103

Name of Event: Girls on The Run 5K

Facility where the event will be held: Cumberland Fairgrounds

Is the facility owned by the applicant: yes; no, (if no, attach a copy of the contract with The owner which allows use of property)

Name of promoter (if different from above):

Telephone number: 747-5477

Date of Event: June 3, 2018, Time (start and finish times): 6 am - 1 pm

Number of tickets available:

Expected attendance: 2200

Description of event: 5K Run/Walk

Will any food vendors be serving at the event: yes, no, (if yes, how many, and what types) 1 food vendor

Will any alcohol vendors be serving at the event? yes, no (if yes, list name and attach A copy of the vendors license to sell alcohol, describe what alcohol will be served)
Describe the three most recent outdoor performances of the group, performer, or event being proposed. Include location, date(s), number in attendance, promoter or sponsoring person or organization.

1. ___________ 5K - 2017 ___________
2. ___________ 5K - 2016 ___________
3. ___________ 5K - 2015 ___________

Description of facility:

A. Seating capacity: ___________ permanent; ___________ temporary

B. Other seating capacity: ___________ festival; ___________ standing room only (sq. ft.)

C. Number of toilets available: ___________ permanent; ___________ portable

D. Number of parking spaces available: ___________ on-site; ___________ off-site

E. Are all parking lots lighted (applicable only if event runs into evening hours): ___________ yes; ___________ no, if no, which lots are not lighted ___________

F. Source of potable water: ___________

G. Refuse containers available, number and size: ___________

H. Name of refuse disposal company (attach a copy of the agreement to pick up refuse) ___________

I. When will refuse be picked up? ___________

Public Safety:

J. Describe first aid facilities: ___________

K. Describe emergency facilities: ___________

L. Describe communication facilities: ___________

M. Number of certified police officers: ___________

N. Other security personnel (include company name and qualification): ___________

O. Describe fire personnel: ___________
TOWN OF CUMBERLAND MASS GATHERING PERMIT REQUESTED FOR GIRLS ON THE RUN 5K ON SUNDAY, JUNE 3, 2018 AT CUMBERLAND FAIRGROUNDS

NUMBER OF PEOPLE:

We expect approx. 2200 people to attend the Girls on the Run 5K event on Sunday, June 3rd.

We expect 1500 5K Runners (900 girls ages 8-14 with 600 adult Running Buddies, and an additional 200 mostly adult runners) and approx. 500 additional spectators.

SET-UP:

The event festival (stage, tents, finish line chute, food/water, port-a-potties etc.) will be contained within the infield of the horse track.

The 5K run/walk will begin and end on the horse track with two loops around the perimeter of the Fairgrounds.

EVENT TIMES:

We will be onsite at the Fairgrounds from 6am-1pm.

Volunteers will arrive between 6:30am and 7:30am.

The girls and their families start arriving at 8am.

The 5K run starts at 9:45am.

Most girls complete the 5K in 45 min to 75 min.

The event will wrap up at 11:30am and staff and volunteers will breakdown in about an hour so we will be gone by 1pm at the latest.

CONTACT:

Girls on the Run-Maine
Our office address is: 980 Forest Ave Suite 206 Portland, ME 04103
Office phone: 207-747-5677

Event Staff
Emily Clark cell: 207-653-8621  emily.clark@girlsontherun.org
Staci Olson cell: 207-798-0242  staci.olson@girlsontherun.org
Allison Ayan cell: 207-239-9135  allison.ayan@girlsontherun.org
Katie VerLee cell: 774-641-0223  kate.verlee@girlsontherun.org
Maggie Poisson cell: 207-671-7397  maggie.poisson@gmail.com
# Certificate of Liability Insurance

**PRODUCER:**
NFP Corporate Services (SE) Inc.
1901 Roxborough Rd., Ste. 300
Charlotte NC 28211

**INSURED:**
Girls on the Run-Maine
980 Forest Ave.
Portland ME 04101

**COVERAGES**

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**WORKERS COMPENSATION AND EMPLOYERS’ LIABILITY**

| N/A |

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES**

Proof of insurance for Girls on the Run-Maine for 5K event on June 4, 2017 at Cumberland Fairgrounds.

**CERTIFICATE HOLDER**

Town of Cumberland
290 Tuttle Road
Cumberland ME 04021

**CANCELLATION**

**AUTHORIZED REPRESENTATIVE**

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ITEM 18-036

To hold a Public Hearing to consider and act on a Mass Gathering Permit application for the Zerbini Family Circus to be held on July 27, 2018 from 8:00 a.m. to 10:00 p.m. at the Cumberland Fair Grounds
MEMORANDUM

To: William Shane, Town Manager
From: Tamara O'Donnell, Town Clerk
Re: Zerbini Family Circus

A meeting was held at 10:00 a.m., on Tuesday, February 27, 2018, with Deputy Town Clerk Eliza Porter, Town Manager Bill Shane, Police Chief Rumsey, Police Lt. David Young, Fire Chief Dan Small, and Mike Timmons, from the Cumberland Farmer’s Club.

I reviewed in detail the requirements of the Mass Gathering Ordinance. The following represents our mutual understanding:

• Exact attendance levels are unknown, however, it was determined that 300-500 per show is likely. Therefore, the organizers will pay the Minor Mass Gathering fee of $250.00.

• The Zerbini Family Circus will be held on July 27, 2018. The hours will be from 8 a.m. to 10 p.m.

• Children under 13 will be free with an accompanying adult. Maximum adult tickets sold per show will be 300.

• Circus under the Big Top will be a 100 minute performance.

• “No Parking” signs will be posted on the edge of Tuttle Road at the entrance to the park.

• There will be circus owned concessions with cotton candy, popcorn, and soda.

• Trash will be taken care of on site.

• Insurance certificate is attached.

• There will be 1 Paramedic and 1 EMT, from the Fire Department on site at both locations.

• There will be 2 police officers on duty at the event, with one (.5) being there at peak times only.

• Communication between parties will be by two way radio and cell phone.

• Contact person for this event is Mr. Willy Walters. Contact number is 813-655-5264.
Approximate fees for this event are as follow:

$ 250.00  Mass Gathering Permit
$1,416.00  Police Department
$1,175.00  Fire Department

I believe we have covered all areas related to the Mass Gathering Permit application. I anticipate that this event will be very successful and well managed. I hope the weather cooperates and they have a wonderful turnout. Thank you.
TOWN OF CUMBERLAND

Mass Gathering Application-Minor Large Outdoor Event (500-4,999 persons)

This application must be filed with the Town Clerk not less than 60 days before the date of the event. Application must be accompanied by a non-refundable fee of $250.00.

Name of Applicant: Zerbini Family Circus Inc

Address of Applicant: 25940 L E J Rd Myakka Fl 34251

Routing Director: Pease 148 Sarasota, Fl 34230

Name of Event: Zerbini Family Circus

Facility where the event will be held: Cumberland Fairgrounds

Is the facility owned by the applicant: yes; no, (if no, attach a copy of the contract with The owner which allows use of property)

Name of promoter (if different from above):

Telephone number: 386-679-8257 Willy Waltens 941-219-9595 Alain Zerbini

Date of Event: July 27, 2018 Time (start and finish times): 8am to 10:00 Pm

Number of tickets available: under 13 is free with accompanying adult. Max Adult tickets sold is 300 per show

Expected attendance: 300-500 per show

Description of event: Circus under the Big Top 100 minute performance

Will any food vendors be serving at the event: yes, no, (if yes, how many, and what types) Circus owned Concession with Cotton Candy Popcorn Soda Sno Cones. No outside vendors allowed

Will any alcohol vendors be serving at the event? yes, no (if yes, list name and attach A copy of the vendors license to sell alcohol, describe what alcohol will be served)
Describe the three most recent outdoor performances of the group, performer, or event being proposed. Include location, date(s), number in attendance, promoter or sponsoring person or organization.

1. Zerbini Family Circus New Portland liras Fairgords me July 20
2. Piscataquis Valley Fair Asso Fairgords 77 Fairview Ave Dover Foxcroft me July 22
3. Zerbini Family Circus Springfield Fairgords Hwy 169 Springfield me July 23

Description of facility:

A. Seating capacity: ______persons permanent; ______ temporary

B. Other seating capacity: ______festival; ______ standing room only (sq. ft.)

C. Number of toilets available: ______ permanent; ______ portable

D. Number of parking spaces available: ______ on-site; ______ off-site

E. Are all parking lots lighted (applicable only if event runs into evening hours): ______ yes; ______ no, if no, which lots are not lighted

F. Source of potable water: ______ water spiget from fairgords

G. Refuse containers available, number and size: ______

H. Name of refuse disposal company (attach a copy of the agreement to pick up refuse)
   ______ Circus Carries Garbage if no dumpster provided on site

I. When will refuse be picked up? ______ Before Circus leaves at 10:10:50 pm

Public Safety:

J. Describe first aid facilities:

K. Describe emergency facilities:

L. Describe communication facilities:

M. Number of certified police officers:

N. Other security personnel (include company name and qualification):

O. Describe fire personnel:

My job description is Routing Director. The circus Permitting Dept normally fills out Permit Application.
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFRMS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZE REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Specially Insurance, LTD.
P.O. Box 16901
West Haven, CT 06516
http://specialtyinsurance.com

INSURED
Zerbini Family Circus, Inc
25940 L & J Road
Mykka City, FL 34251

CONTACT
NAME: Thomas Plouffe / Michael Plouffe
PHONE: 203-931-7095
FAX (A/C, No): 203-931-0682
E-MAIL ADDRESS: tom@speciallyinsurances.com /mike@speciallyinsurances.com

COVERAGES

CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Cumberland Farmers Club, Cumberland Fairgrounds and Town of Cumberland are added as an additional insured but only with the respects to the operations of the named insured during the policy period.

July 27, 2018

CERTIFICATE HOLDER
Cumberland Farmers Club
Cumberland Fairgrounds
C/O Michael Timmons
140 Bruce Hill Road
Cumberland, Me. 04021

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Thomas Plouffe

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ACORD 25 (2016/03) The ACORD name and logo are registered marks of ACORD
General Information about the Daily Operation of the Circus

The ZERBINI FAMILY CIRCUS is a circus owned and operated by the Zerbini family for many years. The founders, Alain and Letty Zerbini formed the circus with the intention of bringing affordable, family-based entertainment to communities across America.

The circus erects the tent which measures 120’ x 80’ and is constructed of flame resistant 24oz Naizi vinyl laminated material. All membranes supporting the tent fabric are galvanized aircraft-quality cable. The tent was constructed in April 2014 by Anchor Industries and is treated with a flame resistant material which is good for the life of the tent and cannot be removed by washing or weather. A certificate of flame resistance is sent to each sponsor and is also available for inspection at the circus office at any time.

There are 4 main exits in the tent and additional exits can be created in accordance with municipal regulations. Each exit is at least 10 to 15 feet in width and marked with an exit sign which has an auxiliary power supply.

Seating in the tent has been rebuilt and consists of steel bleachers which are 8 rows high with foot boards on the top 4 rows. Seats are a maximum of 43 inches in height.
Daily safety procedures consist of:
- Posting of NO SMOKING signs throughout the tent.
- NO SMOKING announcements during each performance.
- Fire extinguishers placed in strategic locations throughout the tent.
- Safety lane between the circus tent and vehicles.
- No vehicles located in the tent during performance.

Set-up of the circus is normally started at 7:00 a.m. and is completed by 12:00 p.m. The tent is taken down at the conclusion of the last performance of the engagement. A thorough clean up of the grounds is completed before the circus leaves the town.

The circus does not operate games of chance or mechanical rides. The circus does not permit the sale of alcoholic beverages.

Food items are dispensed from the concession trailer area. Hot dogs and buns are the only perishable items sold at the circus and are stored under refrigeration. The purchase of these items are made daily at local supermarkets. Other items sold are cotton candy, popcorn, sno-cones, nachos, water, soft drinks and funnel cake.

If inspections of any kind are to be made by authorized personnel it is requested that inspections be made after the set up of the circus has been completed, normally around 12:00 p.m. Authorized inspectors should contact the circus management before any inspections.

We appreciate your interest in the Zerbini Family Circus and look forward to working with you and your organization.

Our goal is to present “The finest in family entertainment at prices which families can afford!”

Michale D. Jones
HOW TO APPLY FOR LOCAL PERMITS AND LICENSES

Every town has a slightly different process for approving an outdoor event such as a circus. The following is a typical approval process for most towns we appear in. You can call us at 813-655-5264 or 941-219-9595 if you have any specific requirements that are not covered in this write-up.

1. Call Town of City Hall and speak to the Town Administrator’s office to ask how to get permission and permit applications for a circus benefit. The office will usually have knowledge of the process you have to go through to get the approval for this type of event.

2. Normally you have to get permits from the Town of City Council, the Building Inspector, Fire Department, Health Department and sometimes the Police Department. Some of these departments will require an inspection on the day of the show.

3. If you are using a municipal park for the circus lot, you will no doubt need to apply for a use permit.

4. The town will require a Certificate of Insurance that will be issued and sent to you. All sponsors and necessary entities will be listed on the certificate.

5. Be sure to apply for the permits early as some towns have a lengthy approval process.

6. Let all departments involved in the inspection process know the circus will be ready for inspection between 11:00 a.m. and 12:00 p.m. on the day of the show.
ITEM 18-037

To hold a Public Hearing to consider and act on amendments to Chapter 30 (Boards and Commissions) of the Cumberland Code, as recommended by the Ordinance Committee
Chapter 30  
Boards and Commissions

[HISTORY: Adopted by the Town of Cumberland as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES
Coastal Waters Commission — See Ch. 48.
Board of Sewer Appeals — See Ch. 216.
Shellfish Conservation Commission — See Ch. 223.

Article I  
Planning Board

[Adopted 2-25-1974]

§ 30-1 Creation.
There is hereby created a Planning Board of the Town of Cumberland to exercise the powers granted it herein as well as those powers given to such boards by statute.

§ 30-2 Appointment; qualifications; term of office; vacancies.
A. The Planning Board shall be comprised of seven members who shall be appointed by the Town Council.

B. Members shall be residents of the Town and serve without compensation. Members of the Town Council and members of the Board of Adjustment and Appeals shall not serve as members of the Planning Board.

C. The terms of members shall be three years, except that initial appointments shall be of three members for three-year terms, two members for two-year terms and two members for one-year terms.

D. Vacancies may occur by reason of resignation, death, removal from the Town and, when certified to the Council by a majority of the members of the Board, by failure to attend at least 75% of Board meetings, regular or special, during any twelve-month period. A member may also be removed for cause after notice and hearing by the Town Council. Vacancies shall be filled by the Town Council for the unexpired term.

§ 30-3 Organization and rules.
A. The Board shall annually elect a Chairman and a Vice Chairman and such other officers as it may determine necessary. Each such officer shall serve for a period of one year or until a successor is elected. A member may succeed himself as an officer.

B. The Board shall hold regular monthly meetings and such other meetings as it deems necessary from time to time. The Chairman or Vice Chairman shall call meetings of the Board when requested by a majority of the members of the Board or a majority of the members of the Town Council.
C. Four members of the Board shall constitute a quorum for the transaction of business. A lesser number may adjourn from time to time. The concurring vote of a majority of the members of the Board present and voting shall be necessary to approve any application or to support a recommendation to the Town Council on any amendment to the Zoning Ordinance or Zoning Map. [Amended 7-27-2015]

D. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the other members present.

E. The Board may adopt, and amend, from time to time such procedural rules for the conduct of its business as it deems necessary or convenient.

F. All records of the Board shall be public records and may be inspected at reasonable times.

§ 30-4 Duties and powers.
The Planning Board shall have the following duties and powers:

A. The Planning Board shall prepare a new or revised comprehensive plan for the Town of Cumberland at least every five years. Such plan shall conform as nearly as practicable to the definition thereof contained in 30-A M.R.S.A. § 4326 and in any event shall include a compilation of policy statements, goals, standards, maps and pertinent data relative to the past, present and future trends of the Town with respect to its population, housing, economics, social patterns, land use, and water resources and their use, transportation facilities and public facilities. [Amended 9-10-2012]

(1) In the preparation of a comprehensive plan, the public shall be given an adequate opportunity to be heard.

(2) Upon submission of a new or revised comprehensive plan by the Board to the Town Council, the Council shall adopt the same, with such changes as it deems proper, within nine months after its receipt by the Council.

B. The Board shall serve under 30-A M.R.S.A. § 4403 as the municipal reviewing authority of all requests for subdivision approval. [Amended 9-10-2012]

C. The Board shall study the existing Subdivision Ordinance of the Town and shall submit to the Council for its consideration proposed amendments thereto, consistent with said comprehensive plan. The Board shall reexamine the Subdivision Ordinance and make any recommendations for changes therein which it deems desirable within six months after Council adoption of a new or revised comprehensive plan. The Council shall take action on such recommendations within six months after receiving them.[1]

D. The Board shall prepare, every five years, a revised zoning ordinance which shall become one of several possible vehicles for implementation of the comprehensive plan.[2]

E. The Board shall review and approve all proposed street names; investigate and make such reports and recommendations upon such matters as it may deem appropriate or as may be formally referred to it by the Town Council, the Board of Adjustment and Appeals or the Town Manager; and review and develop with the Town Manager the annual capital budget.

§ 30-5 Overriding certain Planning Board actions.
In those matters in which the Planning Board is called upon to make a decision and which are now reserved by the Charter, statute or ordinance for decision by the Town Council, the Board of Adjustment and Appeals, the Town Manager, or others, any alteration of its decision can only be achieved by a two-thirds vote of the Council. A proposal which has been disapproved by the Board may be enacted only by a two-thirds vote of the Council.
§ 30-6 **Assistance from other Town officials.**  
The Town Manager and the Building Inspector shall attend at least a majority of the meetings of the Board. The Board may request the Town Manager to engage such professional and clerical help as it may require to carry out its duties, subject to the availability of funds appropriated therefor by the Council. The Board shall annually through the Chairman request operating appropriations in a manner prescribed by the Manager. Professional appointments made by the Manager shall be with the advice of the Board and subject to Council confirmation.

§ 30-7 **Effect on existing Planning Board and Comprehensive Plan.**  
The present Planning Board shall continue in existence and continue its functions until a new Planning Board is appointed in accordance with this article. The Town's present Comprehensive Plan shall continue in full force and effect until such time as a new plan is adopted.

Article II  
**Board of Assessment Review**

[Adopted 1-25-1993; amended in its entirety 12-9-2002]

§ 30-8 **Authority and purpose.**  
Pursuant to the provisions of 30-A M.R.S.A. § 843, the Town of Cumberland hereby establishes a Board of Assessment Review ("Board") to hear appeals from decision of the Town's Assessor as provided by state law.

§ 30-9 **Establishment; membership; vacancies; term of office.**  
A. Establishment of Board. The Board shall consist of five members appointed by the Town Council. Members shall hold no position of emolument with the Town of Cumberland. Vacancies on the Board due to death, resignation or other cause shall be filled by the Town Council, which shall appoint a person to serve for the remainder of the unexpired term.

B. Term: three years, staggered so that no more than two members shall be appointed in any one year to fill a full term.

§ 30-10 **Organization and procedures.**  
A. The Board shall annually, at its first meeting of each new calendar year, choose a Chairman and a Secretary from among its members.

B. The Board's members and alternates in carrying out their statutory duties shall act in a quasi-judicial capacity, acting fairly, independently, and impartially.

C. As required by 30-A M.R.S.A. § 2526, Subsection 6G, the Board's procedure is governed by 30-A M.R.S.A. § 2691, Subsection 3. [Amended 9-10-2012]

D. Where 30-A M.R.S.A. § 2691, Subsection 3, as cited above is silent as to how the Board may proceed, the Board in following 30-A M.R.S.A. § 2691, Subsection 3C, shall rely on Robert's Rules of Order, Newly Revised, except that any final action or decision by the Board shall require the concurring vote of two members. [Amended 9-10-2012; 7-27-2015]

E. The Board shall give reasonable advance notice of its meetings by publication, at least seven days in advance of each meeting, in a newspaper of general circulation in the Town of Cumberland, and, except as provided by the Freedom of Access Law (1 M.R.S.A. § 401 et seq.), all meetings of the Board shall be open for the public to attend.

F. If a majority of the Board deems it necessary, the Board may view or inspect the property at issue. At any such viewing or inspection of the property, the taxpayer and the assessor and their legal representatives, if any, may be present. However, no evidence or testimony shall be afforded at such viewing or inspection, but the taxpayer and assessor, or their legal representatives, may call to the
attention of the Board, but without further comment, the characteristics of the property which they wish the Board to observe. The Board shall place a summary of the viewing or inspection of the property on the record at the Board's next regularly scheduled meeting, and each party may comment upon the viewing or inspection of the property at this time.

G. All applications for appeals from decisions of the assessor must comply with the requirements of 36 M.R.S.A. § 843.

§ 30-11 Decision.
The Board shall issue a written decision on an application for abatement within the time required by 36 M.R.S.A. §§ 842 and 843 and in the manner prescribed by 36 M.R.S.A. § 842.

§ 30-12 Appeals.
Either party may appeal the decision of the Board on an abatement application pursuant to 30-A M.R.S.A. §§ 2526 and 2691 and 36 M.R.S.A. § 843.

Article III
Town Lands and Conservation Commission

[Adopted 2-13-2017;3]]

§ 30-13 Title.
This article shall be known as the "Cumberland Town Lands and Conservation Commission Ordinance" and will be referred to herein as "this article."

§ 30-14 Creation; membership; term of office; organization.
There is hereby created the Town Lands and Conservation Commission (herein "Commission" or "LCC") for purposes set forth in § 30-15 of this article and for such additional purposes as the Town Council in its discretion may assign.

A. The Commission consists of at least 11 members appointed by the Town Council, all of whom will be residents of the Town. Appointments to the Commission will be for terms of three years; provided, however, that an approximate equal number of members will be appointed for initial terms of three years, two years, and one year.

B. The Commission will annually elect a Chair, Vice Chair, and Secretary from among its members, plus such other officers as the Commission in its discretion may determine.

C. Upon the recommendation of the Commission, the Town Council may appoint associate nonvoting members to the Commission for terms of one, two, or three years as the Council in its discretion may determine.

D. The Commission will establish a regular schedule of meetings and will give appropriate public notice of its meetings.

E. The Town Council may dismiss a member of the Commission or of the subcommittees for cause before the member’s term expires. A member will forfeit his/her membership on the Commission or on a subcommittee if he/she fails to attend three consecutive regular meetings without being excused by the Commission. The Chair of the Commission will notify the Town Council Chairman of the forfeiture of office by a member.

§ 30-15 Purpose and duties.
The Commission will promote the conservation of natural resources and encourage the conservation of water, land, and open space and vistas within the Town and will develop educational programs to achieve greater public awareness of the importance and need for conservation within the Town. The Commission
will develop, and recommend to the Town Council, programs and policies to implement the conservation-and recreation-related goals and objectives of the Town's Comprehensive Plan. The Commission will develop programs to achieve greater public awareness of the importance and need for conservation of natural resources and land within the Town for open space and recreational purposes. In addition, the Commission must:

A. Periodically report to the Town Council regarding the condition, status, or current use of the following properties:

(1) Any parcel of land owned by the Town;

(2) Any parcel of land in which the Town has acquired an interest less than ownership, including but not limited to rights-of-way, easements, rights of development, options to purchase, or any other permissive or conditional use of any type.

B. Develop long-term strategies for the use of all Town-owned open spaces and natural resources.

C. Submit recommendations to the Town Council regarding the acquisition of property within the Town of significant conservation value, or the acquisition of interest in property less than ownership, including but not limited to rights-of-way, easements, rights of development, options to purchase, or any other permissive or conditional use of any type.

D. Offer input and recommendations to the Town Council regarding any proposed development of Town-owned property or any significant proposed change in use of Town-owned property.

E. Make recommendations to the Town Council as to the receipt of gifts in the Town's name for any of the Commission's purposes and administer each such gift for those purposes subject to the terms of the gift.

F. Coordinate with the Director of Community Education and Recreation and the Parks and Recreation Commission to develop recommendations regarding the use or development of Town-owned property for recreational purposes.

G. Develop strategies for coordinating the activities of other conservation organizations within the Town, including the Chebeague and Cumberland Land Trust, and within surrounding communities and the immediate area.

H. Develop partnerships with state and local stakeholders, including, but not limited to, conservation, education, recreation, cooperative extensions, and government groups.

I. Conduct research, in conjunction with the Planning Board, into local land areas that are being considered for development. The Planning Board will request input from the Commission in conjunction with any proposed major or minor subdivision that impacts the Town's natural resources or Town-owned property or which involves the transfer of an interest in land to the Town.

J. Advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which the Commission considers necessary.

K. With respect to any of the properties described in Subsection A above, submit recommendations to the Town Council regarding:

(1) The management, preservation, maintenance, or upkeep of the property.

(2) Improvements or modifications to the property to meet the changing recreational and open space needs of the Town.
(3) Methods of facilitating or regulating public use of or access to the property, as may be appropriate.

(4) Methods of increasing public awareness, understanding, and appreciation of the property and its conservation value to the Town.

L. Submit a written summary to the Town Clerk for inclusion in the Town Report.

M. Coordinate the efforts of the subcommittees to assure the duties and responsibilities assigned below in § 30-16 are achieved.

§ 30-16 **Town Forest and Trails Subcommittees; other subcommittees.**

A. Standing subcommittees.

(1) The Town Council will appoint standing subcommittees including:

(a) Forestry and Natural Resources; and

(b) Recreational Trails.

(2) Each subcommittee Chair or designee will have at least one member will attend the monthly LCC meeting and will have one vote at the LCC meeting. The voting member will be eligible for election to a Commission office.

(3) **All standing subcommittees will report directly to the Lands and Conservation Commission board.**

B. The Forestry and Natural Resources Subcommittee will make recommendations to the Commission on all matters pertaining to the use, preservation, management and maintenance of the Town forests and other natural resources. The Subcommittee will:

(1) Create programs to promote public awareness of and appreciation for the Town forests and to enhance the use of these forests for educational and conservation purposes.

(2) Create and maintain trails through the forests to facilitate public access and to encourage the use of the forests for educational and recreational purposes.

(3) Create a forest management plan, to include recommendations for planting, pruning, harvesting, and replacing trees and other vegetation within the forests, and such other recommendations to protect the conservation values of the forests as may be necessary.

(4) Retain a licensed forester or similarly qualified individual to provide advice in all aspects of forest management and maintenance.

(5) Create programs or plans to coordinate the use and management of the Town forests with other Town-owned properties.

(6) Provide, execute and monitor forestry management and conservation management plans for each of the larger forested parcels owned by the Town.

(7) Ensure sustainability and conservation of the properties.

(8) Identify, monitor and mitigate invasive plant/insect species where cost-effective.

(9) Identify and monitor wildlife habitats and corridors.
C. The Recreation Trails Subcommittee will make recommendations to the Commission on all matters pertaining to the use, preservation, management and maintenance of the Town trails. The Subcommittee will:

(1) Develop and maintain plans for and governing the use and maintenance of all trails that are part of the Town recreation areas, including trail easements on private lands.

(2) Provide guidance and leadership in existing and new trails within the Town and with surrounding towns.

(3) Provide guidance and leadership for securing Town "urban" trails to encourage walkability and connections between neighborhoods.

(4) Work with the Cumberland Moonlite Sno-skimmers to identify trails on Town land appropriate to snowmobiling.

D. The Commission may establish other subcommittees for such purposes as the Commission shall determine in the exercise of its duties. All subcommittees will report directly to the Lands and Conservation board.
ITEM
18-038

To hold a Public Hearing to consider and act on amendments to Chapter 48 (Coastal Waters) of the Cumberland Code, as recommended by the Ordinance Committee
§ 48-5. Moorings. [Amended 1-23-2017]

A. General. No person can may place or establish a mooring in the coastal and tidal waters of the Town except within designated mooring areas as described in and shown on the Coastal and Tidal Waters Plan; provided, however, that:

(1) A riparian owner who is the master or owner of a watercraft may be assigned a mooring fronting his/her land even though the mooring is not within a mooring area shown on the Coastal and Tidal Waters Plan, so long as the mooring does not encroach upon the natural channel or channels established in the Coastal and Tidal Waters Plan and provided that the riparian owner must annually register the mooring as provided in Subsection B of this section.

(2) A riparian owner using a mooring or moorings fronting his/ her land but not located within the mooring areas shown and described in the Coastal and Tidal Waters Plan of the Town as of the effective date of this chapter and may be allowed to continue to use up to three such moorings at the same location, so long as the moorings do not encroach upon the natural channel or channels established in the Plan and provided that such person the riparian owner informs the Harbormaster of the mooring location of said moorings within one year from the effective date of this chapter and annually registers the moorings as provided by Subsection B of this section.

(3) A property owner with a right-of-way (ROW) to the water is accorded the same rights and restrictions accorded to a riparian owner under Subsection A(1) and (2) above, except that the mooring(s) may be placed as conveniently as possible in front of the ROW and must not interfere with the reasonable placement of moorings allowed for riparian owners. Furthermore, should space be insufficient to meet demands, the number of moorings allowed for a ROW property owner in front of the ROW may be reduced to one.

B. Assignment and location of moorings.

(1) No person may moor his/her watercraft in any part of the coastal and tidal waters of the Town without first annually registering the watercraft and obtaining a mooring assignment specifying the location of the mooring.

(2) No owner or master of any watercraft may permit or suffer his/her watercraft to be docked or moored in such a manner.
as to obstruct the free passage of other watercraft going to or from any wharf, or pier, or other mooring in the Town.

(3) Any mooring assignment in the coastal and tidal waters of the Town is governed by the following guidelines:

(a) Application for a mooring must be made by May 1 of each year unless an applicant shows good cause why he/she could not apply before by May 1 (as, for example, a person who acquires a boat or becomes a resident after May 1). A mooring assignment will be valid until the next April 30.

(b) All persons applying for and receiving a mooring assignment must pay to the Town a fee as established by order of the Town Council. See Ordinance Chapter 84-12 A and B.

(c) If a person with an assigned mooring changes watercraft during the permit year, a new mooring application must be submitted as soon as possible describing the new watercraft. If the characteristics of the mooring (block, chain, pennant) must be changed to accommodate the new watercraft, the application should be made in advance of the changes. If the mooring location needs to change, the application and approval MUST precede any changes. No new fees will be charged. The Harbormaster should be consulted if there are any questions.

(d) Each mooring application must be fully completed.

(e) Notwithstanding any other provision of this chapter to the contrary, any person using a mooring located within the mooring areas shown and described in the Coastal and Tidal Waters Plan of the Town as of the effective date of this chapter and said Plan will be allowed to continue to use that mooring at the same location, so long as said the mooring does not encroach upon the natural channel or channels established in said the Plan, and provided that such person informs the Harbormaster of the location of said the mooring within one year from the effective date of this chapter and annually registers the mooring as provided by this Subsection B.

(4) In the event that more mooring applications are received than there are available spaces, the Harbormaster may maintain a waiting list of all applicants who have not been assigned a mooring. Further, if a plan is amended and that revised
plan provides for fewer moorings, the moorings available under the revised plan must be assigned to persons who had registered moorings at the time of amendment of the plan under this allocation system, except as otherwise provided by this chapter. Persons may add their names to the waiting list at the Town Clerk’s office during normal business hours. This procedure must be posted in the Town Hall, and the waiting list must be a public document under the Freedom of Access Law.¹ The waiting list must be maintained in chronological order of application, and any vacant space must be assigned to the first person on the waiting list, in accordance with the following priorities:

(a) A riparian owner who is the owner or master of a watercraft and who is applying for a mooring assignment must receive the first vacancy available, and the mooring must be located fronting his/her property, provided that such location does not encroach upon the natural channel or channels established by municipal officers the Plan. No more than one mooring may be assigned to any shorefront parcel of land under this priority, but this limitation may not prevent a riparian owner from receiving additional mooring assignments under this allocation system.

(b) A homeowners’ association member who has recorded rights to the shore through a deed, subdivision plan, or homeowners’ association document.

(c) A property owner with a right-of-way ROW to the water is accorded the same rights and restrictions accorded to a riparian owner, except that the mooring(s) may be placed as conveniently as possible in front of the ROW and must not interfere with the reasonable placement of moorings allowed for riparian owners.

(d) Any other resident or property owner of the Town.

(e) Any person who does not meet the requirements of Subsection B(4)(a) through (d) above; however, if a waiting list is created, the next vacant space must be assigned to the first nonresident on the waiting list in accordance with the following priority:

[1] If the principal use of the vessel is noncommercial and less than 10% of the assigned moorings in the mooring area are currently assigned to persons fitting

¹ Editor’s Note: See 1 M.R.S.A. § 401 et seq.
this description, then to the first such person on the waiting list.

[2] If the principal use of the vessel is commercial and less than 10% of the assigned moorings in the mooring area are currently assigned to persons fitting this description, then to the first such person on the waiting list.

[3] If both nonresident noncommercial and nonresident commercial assignments are below 10% of the moorings and there are both types of applicants on the waiting list, the available space must be assigned to the first applicant in the category that is farthest below 10%.

(5) The Harbormaster must maintain a record of each mooring assignment, including the location of assignment as well as the application information required by this chapter. These records must be retained as required by the State’s records management process.

(6) Mooring assignments are not transferable, and such assignments must not be rented unless approved by the Harbormaster.

(7) The Town reserves the right to reassign moorings each year to better use available space.

C. Moorings. Moorings must consist of appropriately sized mushroom anchors, granite blocks, or helix moorings, connected to a surface buoy by a chain of appropriate size and length for the vessel, depth of water, and exposure to weather. Concrete blocks, engine blocks, and other "objects of convenience" are not allowed. The surface float must consist of a white mooring ball on which the name of the watercraft owner or master and mooring registration number is painted with at least three-inch-tall letters and numbers in a contrasting color. A pennant of suitable diameter and length completes the mooring assembly. Guidance for selecting the sizes of materials can be obtained from the Town website and/or from approved mooring services qualified mooring specialists who are also listed on the Town website.

D. Inspections.

(1) An approved mooring service must inspect and be satisfied that each mooring is in safe condition before
it is placed in the mooring area.

(2) Each mooring must be inspected every two years by a qualified mooring inspector. A list of qualified mooring inspectors may be obtained by contacting the Harbormaster. The inspection results must be reported to the Harbormaster within five working days and all deficiencies repaired within 30 days of the inspection.

(3) The Harbormaster will, in accordance with Maine Revised Statutes Chapter 5, section 95-B, Local Government Records, maintain a file on each mooring including the dates of inspection and approved mooring service that inspected it.

E. Winter spars. Winter spars cannot be installed before September 15 and must be attached by December 1 each year. They must be removed and replaced with the white ball by June 1.

F. Removal of moorings. An owner who discontinues the use of a mooring is responsible for removing the mooring from the marine environment. The Town has the right to remove and dispose of any mooring including unsafe, abandoned, unregistered, improperly identified and "objects of convenience" moorings at the owner's expense. The penalty for failing to remove and dispose of any mooring is described in Chapter 84-12 E. Disposition of any proceeds from removed moorings is governed by State Abandoned Property Law.

G. An applicant receiving a mooring assignment within Broad Cove Reserve, effective on or after May 1, 2017, must install the mooring during the first year of assignment. Should a mooring not be installed during that first year and the applicant again apply within three years, a relocation and administrative fee must be paid to cover the expense of retrieving the original marker and subsequent locating and marking prior to the issuance of the second mooring site assignment. The relocation fee is specified in Chapter 84-12 C.

H. Mooring services rules and regulations.

(1) No person may install or inspect moorings or offer to install or inspect moorings for hire within the mooring area without first registering the mooring service with the Harbormaster.

(2) Mooring services operating within the mooring area must adhere to the following rules:
(a) **Mooring buoys must comply with the requirements of 48-5 C before being set or re-set.**

(b) **A certificate of insurance indicating the coverages detailed in section 48-2, (approved mooring service), must be provided to the Harbormaster annually.**

(c) **Approval of the Harbormaster must be obtained at least two working days prior to setting, hauling out, relocating, or adjusting any mooring. The mooring service must provide the Harbormaster with the location by GPS coordinates before and after the action for which approval is sought.**

(d) **Moorings for which the service is responsible must be adjusted within two days after notification by the Harbormaster.**

(e) **All new moorings must be registered and pass a complete mooring inspection prior to use.**

(f) **Each mooring service must inspect the moorings they service at least once every two years. Failure to perform such inspections may result in rejection of any application in the Town’s coastal and tidal waters; the Harbormaster’s causing the mooring to be inspected at the owner’s expense; and/or an order to remove the mooring at the owner’s expense.**

(3) **Any approved mooring service which fails to comply with the rules in this section is subject to having its privilege to operate in the Town’s coastal and tidal waters suspended.**
ITEM
18-039

To hold a Public Hearing to consider and act on amendments to Chapter 162 (Mass Gatherings) of the Cumberland Code, as recommended by the Ordinance Committee
Chapter 162
Mass Gatherings

[HISTORY: Adopted by the Town of Cumberland 11-22-1979, as amended through 7-7-2011. Subsequent amendments noted where applicable.]

§ 162-1 Findings and purpose.
The Town of Cumberland is concerned about the adverse effect to the general health and safety of the community that may result from large crowds which attend outdoor events, including exhibitions, festivals, music concerts and fairs. Large gatherings may lead to sanitation problems, resulting from inadequate waste disposal, insufficient drinking water and ill-equipped first aid facilities; such gatherings may also threaten the safety of the community through the obstruction of roads, violations of liquor and drug laws, and destruction of property. Further, large gatherings that occur within a short period of time create traffic congestion, crowd control, health, sanitation and safety problems which are greater than those which accompany gatherings which occur over a longer duration. Therefore, the following chapter is hereby ordained for the purposes of protecting the general welfare, preventing disease, promoting health and providing for public safety.

§ 162-2 Definitions.
As used in this chapter, the following terms shall have the meanings indicated:

ASSEMBLY AREA
That portion of the premises on which the large outdoor event is held within which persons in attendance are expected to sit or stand.

LARGE OUTDOOR EVENT
Any gathering held outdoors with the intent to attract 500 or more persons for a festival, exhibition, amusement show, fair, theatrical performance, musical performance or other similar activity. Large outdoor events are regulated depending on their anticipated attendance, and so there are two categories of large outdoor events:

A. MAJOR LARGE OUTDOOR EVENT A large outdoor event which is held with the intent to attract a continued attendance of 5,000 or more persons for any length of time.

B. MINOR LARGE OUTDOOR EVENT A large outdoor event which is held with the intent to attract a continued attendance of fewer than 5,000 persons for any length of time.

OPERATOR
The person responsible for the large outdoor event.

PERFORMANCE GUARANTEE
An irrevocable letter of credit from a banking institution authorized to do business in Maine, cash escrow, or other financial guarantee, acceptable to the Town Council and in a form approved by the Town Attorney, provided by an applicant for a large outdoor event license to guarantee the payment of the costs of the prompt cleaning of the grounds after the close of the large outdoor event and the Town police, fire, rescue and public works costs for traffic control, public safety, first aid, fire prevention and law enforcement activities performed by the Town as a result of the large outdoor event (the "public costs"). These public costs shall be those costs incurred by the Town in connection
with the proposed large outdoor event which would not be incurred by the Town if the large outdoor event were not held. Promptly following the large outdoor event, the Town shall release the performance guarantee if the operator pays all such public costs within 10 working days after the large outdoor event.

PERSON
Any natural person, sole proprietorship, partnership, corporation or other entity.

TOWN
The Town of Cumberland.

TOWN COUNCIL
The Town Council of the Town of Cumberland.

§ 162-3 License required; application for license.
A. No person may sponsor, promote, operate or hold any large outdoor event unless a license therefor is first obtained from the Town Council of Cumberland.

B. The licensing procedure will be administered in the following manner:

(1) The person(s) seeking a license must file an application form with the Town Clerk of the Town of Cumberland no less than 60 days before the proposed commencement of the large outdoor event.

(2) The fee for the license shall be established by order of the Town Council and must accompany the application. Money received under this chapter will help defray costs of its administration. The Town Council may at its discretion reduce or waive the fee for charitable and nonprofit organizations.[1]

(3) The application, filed with the Town Clerk, must include a contract with the property owner allowing use of the facility or property, unless the property or facility is owned by the applicant.

(4) Within five days of the receipt of an application, the Town Clerk shall notify the Town Manager and the Police and Fire/EMS Chiefs of the application.

(5) Before a license may be issued hereunder, the Town Council shall hold a public hearing, in order to review the application and determine the conditions required to safeguard the public health, safety and welfare. The license applicants have the right to attend and to represent their interests at such hearing. When considering the issuance of a license for a large outdoor event, the Town Council may seek advice from the Police Chief, Fire/EMS Chief, Code Enforcement Officer, Health Officer and such other Town officials as it deems necessary. After assessing the possible effects that the proposed event may have on the public's health, safety and welfare, the Town Council may deny the license or grant the license, or grant the license and impose such reasonable conditions on the issuance of a license as would safeguard the public interest, including requiring the applicant to:

(a) Post a performance guarantee in a form acceptable to the Town Attorney in an amount estimated by the Town Council to be equal to the public costs described in the definition of "performance guarantee" in § 162-2 of this chapter.

(b) Agree to hiring of certified police officers and rescue and fire personnel at the expense of the licensee. The Police Chief and Fire/EMS Chief will be notified no less than 45 days before the proposed event that the personnel will be needed.

(c) Demonstrate, by means of a written, descriptive plan addressing the standards of this chapter, that adequate facilities will be provided at the site of the large outdoor event, in order to protect the
health of the people who attend, including:

[1] Adequate waste disposal facilities;
[2] Adequate fire-fighting, rescue and police personnel;
[3] Adequate water supplies;
[4] Adequate first aid, rescue and fire facilities and police equipment; and

(d) Give notice to the appropriate Town, county and state officials, as named by the Town Council.

(e) Demonstrate, by means of a written descriptive plan, that adequate parking spaces will be available.

(f) Provide, for major large outdoor events, a detailed plan showing how crowd security and police protection of private property will be accomplished.

(g) Provide, for major large outdoor events, a detailed plan for controlling traffic, which shall contain:

[1] A description of routes which persons attending are likely to take;
[2] Methods to be used to publicize alternative routes;
[3] The number of persons who will be present to direct traffic at the site both before and after the event and their locations; and
[4] A description of what means will be available to remove disabled vehicles from locations under the control of the operator where such vehicles would prevent the free flow of traffic.

(h) Provide a contract with a waste disposal company to remove waste from the site.

§ 162-4 License standards.
In reviewing large outdoor event license applications submitted pursuant to § 162-3, the Town Council shall determine whether to issue a license based upon whether the application meets all of the following standards:

A. Access. Convenient and safe access for the ingress and egress of pedestrian and vehicular traffic exists, and all public roadways in the proximity of the large outdoor event shall be adequately staffed with uniformed police officers to ensure safety to all the public.

B. Grounds.

(1) Each large outdoor event assembly area shall be well drained and so arranged to provide sufficient space for persons assembled, vehicles, sanitary facilities, and appurtenant equipment.

(2) Trees, underbrush, large rocks and other natural features shall be left intact and undisturbed whenever possible, and the natural vegetative cover shall be retained, protected, and maintained so as to facilitate drainage, prevent erosion, and preserve the scenic attributes.

(3) The grounds shall be maintained free from accumulation of refuse and from health and safety hazards constituting a nuisance as defined.

(4) Illumination shall be provided at night beginning 1/2 hour before sunset to protect the safety of the persons at the large outdoor event. The assembly area shall be adequately lighted, but lighting shall
not unreasonably reflect beyond the assembly area boundaries unless adjacent properties are uninhabited.

(5) Parking shall be provided for persons arriving by vehicular means.

(a) Service road and parking spaces shall be located so as to permit convenient and safe movement of vehicular and pedestrian traffic and free passage of emergency vehicles.

(b) The width of the service road should not be less than the following:


(c) Adequate parking space shall be provided, which means that there shall be at least one parking space to every three persons, and the density shall not exceed 100 passenger cars or 30 buses per usable acre.

(6) At least 10 square feet per person shall be provided on the site for a large outdoor event with assigned seating; at least 15 square feet shall be provided for a large outdoor event with festival seating; and no overnight assemblage shall be permitted.

C. Water supply.

(1) An adequate, safe supply of potable water, meeting the requirements of the State Department of Health and Human Services, Division of Environmental Health, shall be provided and common cups shall not be used.

(2) Transported water shall be obtained from an approved source, stored and dispensed in an approved manner. "Approved" as used in this subsection means in compliance with standards adopted by the State Department of Health and Human Services, Division of Environmental Health.

D. Sanitation.

(1) Where water is distributed under pressure and flush toilets are used, the water system shall deliver water at a normal operating pressure (20 pounds per square inch minimum to all fixtures at the rate of at least 30 gallons per person per day).

(2) When water is not available under pressure, and non-water carriage toilets are used, at least three gallons of water per person per day shall be provided for drinking and lavatory purposes.

(3) Where water under pressure is not available, equivalent facilities shall be provided and installed in accordance with the requirements of the Department of Health and Human Services, Bureau of Health, Mass Gathering Rules and Informational Guidelines.

(4) Sanitary facilities shall be separate for males and females and shall be provided at the rate of one for each 200 persons. Any other proposal for providing sanitary facilities must be in accordance with the requirements of the Department of Health and Human Services, Bureau of Health, Mass Gathering Rules and Informational Guidelines.

(5) The required sanitary facilities shall be conveniently accessible and well defined.

(6) Each toilet shall have a continuous supply of toilet paper.
(7) Service buildings or rooms housing required plumbing fixtures shall be constructed of easily 
cleanable, nonabsorbent materials; the buildings, service rooms, and required plumbing fixtures 
located therein shall be maintained in good repair and in a clean and sanitary condition.

(8) Separate service buildings or rooms containing sanitary facilities, clearly marked, shall be provided 
for each sex, and each toilet room shall be screened so that the interior is not visible from the 
outside.

(9) Wastewater shall be discharged in a manner consistent with the requirements of the State 
Department of Health and Human Services, Division of Environmental Health.

(10) Disposal and/or treatment of any excretion or liquid waste shall be in a manner consistent with the 
requirements of the State Department of Health and Human Services, Division of Environmental 
Health.

E. Refuse disposal.

(1) Refuse shall be collected, stored, and transported in such a manner as to protect from odor, 
infestation of insects and/or rodents any and other nuisance condition or conditions which are 
inconsistent with the health, safety, and welfare of the patrons of the large outdoor event or of the 
public.

(2) Refuse containers shall be readily accessible, and one fifty-gallon refuse container or its equivalent 
shall be provided for each 100 persons anticipated or one sixteen-cubic-yard trash container shall be 
provided for every 5,000 persons anticipated. All trash barrels shall be lined with plastic bags.

(3) The area where motor vehicles are parked shall have one fifty-gallon refuse container or its 
equivalent for every 200 such motor vehicles.

(4) All refuse shall be collected from the assembly area at least twice each twelve-hour period of the 
large outdoor event, with a minimum of two such collections per large outdoor event exceeding six 
hours, or more if it is necessary, and disposed of at a waste disposal site approved by the Town.

(5) The grounds and immediate surrounding property shall be cleared of refuse within 24 hours 
following the large outdoor event.

F. Vermin control. Insects, rodents and other vermin shall be controlled by proper sanitation practices, 
extermination or other safe and effective control methods; where necessary, animal parasites and 
other disease-transmitting nuisances shall be controlled.

G. Safety.

(1) Where an electrical system is installed, it shall be installed and maintained in accordance with the 
provisions of the applicable state standards and regulations and the Town's electrical codes.

(2) The grounds, building, and related facilities shall be maintained and used in a manner as to prevent 
fire and in accordance with the applicable local fire prevention regulations.

(3) Internal and external traffic and security control shall meet requirements of the applicable state and 
local law enforcement agencies.

(4) The Town of Cumberland Fire/EMS Department has been informed of the large outdoor event and 
adequate fire protection equipment is available.

(5) For large outdoor events, at least one law enforcement officer per 1,000 persons expected to attend 
the large outdoor event shall be on site to assist in crowd and traffic control, and for major large
H. Medical.

(1) Emergency medical services shall be provided. All personnel must be Cumberland rescue personnel and/or approved by the Chief of the Cumberland Fire/EMS Department and they shall be licensed by the State of Maine as either physician assistant, registered nurse (RN), or emergency medical technician (EMT).

(2) A first aid building or tent with adequate medical supplies shall be available.

(3) An adequate number of vehicles duly licensed by the State of Maine as ambulances shall be available on the site during the complete time of the large outdoor event.

(4) Telephone and radio communications shall be provided and kept available for emergency purposes.

(5) The Chief of the Cumberland Fire/EMS Department shall determine the number of EMT personnel and ambulances needed.

I. Noise. No major large outdoor event shall continue beyond 11:00 p.m.

§ 162-5 Waivers.

[2] The Town Council may, in its discretion, waive any of the requirements under § 162-3 of this chapter if it finds the requirement of information or materials with the application is unnecessary or irrelevant to the review of a particular mass gathering license application.

§ 162-6 Enforcement; violations and penalties.

[3] The Town of Cumberland shall enforce this chapter through its Code Enforcement Officer. Anyone violating any provision of this chapter shall be subject to a fine not less than $500 nor more than $1,000 per violation. Each day such violation continues shall constitute a separate offense.

§ 162-7 Transfer of license.

Licenses issued hereunder shall not be transferable or assignable.
ITEM
18-040

To hold a Public Hearing to consider and act on forwarding to the Planning Board for a Public Hearing and recommendation, amendments to Chapter 229 (Site Plan Review) of the Cumberland Code, as recommended by the Ordinance Committee
Chapter 229  
Site Plan Review

[HISTORY: Adopted by the Town of Cumberland 1-9-2012; amended 3-26-2012. Subsequent amendments noted where applicable.]

GENERAL REFERENCES  
Floodplain management — See Ch. 105.  
Impact fees — See Ch. 137.  
Shoreland zoning — See Ch. 226.  
Stormwater management — See Ch. 242.  
Subdivision of land — See Ch. 250.  
Zoning — See Ch. 315.

§ 229-1 Title, purpose and authority.  
A. Title. This chapter shall be known and cited as the "Site Plan Ordinance of the Town of Cumberland, Maine."

B. Purpose. The site plan review provisions are intended to protect public health and safety, promote the general welfare of the community, and conserve the environment by assuring that all nonresidential development is designed and constructed in a manner which assures that adequate provisions are made for traffic, utilities, stormwater, erosion and sedimentation, wildlife habitat and fisheries, and historic and archaeological resources. Site plan review will also serve to minimize any adverse impacts on neighboring properties and to ensure that new developments will fit in harmoniously to the fabric of the community.

C. Review and approval authority. The Town Planner is authorized to review and approve projects classified as "staff review." However, the Town Planner may refer a staff review project to the Planning Board when the nature of the application warrants a public hearing or poses the potential for significant impacts on municipal facilities or natural resources. The Planning Board is authorized to review all other projects.

§ 229-2 Classification levels.  
A. There are three classification levels of site plan review:

(1) Minor staff review.

(2) Major staff review.

(3) Planning Board site plan review.
B. The Town Planner shall classify each project to determine the level of review required based on the applicability standards set forth in this section. Staff review is designed for the review of smaller projects, while larger projects will be reviewed by the Planning Board. When calculating square footage as referenced below, include the total area, in square feet, of all floors of the building as measured from the interior faces of the exterior walls, excluding unfinished attics and unfinished basements. *[Amended 11-26-2012]*

**Section 1 a. b. & c. Non-Residential**

<table>
<thead>
<tr>
<th>Type of Activity</th>
<th>Minor Staff Review Required Subject to § 229-1C</th>
<th>Major Staff Review Required Subject to § 229-1C</th>
<th>Planning Board Site Plan Review Required</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.</strong> The construction of a new structure (other than single-family and duplex) that contains any of the following:</td>
<td><strong>Less than 1,000 square feet</strong></td>
<td><strong>Between 1,000 and 3,000 square feet</strong></td>
<td><strong>Over 3,000 square feet</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>Over 1,000 cubic yards of fill or excavation</strong></td>
</tr>
<tr>
<td><strong>2.</strong> The expansion of a nonresidential building or structure, including accessory buildings, that increases the total floor area by: the total area, in square feet, of all floors of a building as measured from the interior faces of the exterior walls, excluding unfinished attics and unfinished basements.</td>
<td><strong>Less than 1,000 square feet</strong></td>
<td><strong>Between 1,000 and 3,000 square feet</strong></td>
<td><strong>Over 3,000 square feet</strong></td>
</tr>
<tr>
<td><strong>3.</strong> The construction of an impervious surface such as a support pad or paved or gravel parking area:</td>
<td><strong>Less than 1,000 square feet</strong></td>
<td><strong>Between 1,000 and 3,000 square feet</strong></td>
<td><strong>Over 3,000 square feet</strong></td>
</tr>
<tr>
<td><strong>4.</strong> The conversion of existing approved buildings or structures from one approved use to another without enlargement of gross floor area or increase in required parking</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Site preparation activities related to any type of development, consisting of up to 1 acre of disturbed area, including clearing, grubbing, grading and the construction of</strong></td>
<td><strong>Less than 5 acres</strong></td>
<td></td>
<td><strong>Greater than 5 acres</strong></td>
</tr>
<tr>
<td>Type of Activity</td>
<td>Minor Staff Review Required Subject to § 229-1C</td>
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</tr>
<tr>
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<tr>
<td>reconstruction of driveways and entrances, including the installation of driveway culverts</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>2</strong> Excavation or fill involving over 1,000 cubic yards of material for any type of development or site work that is not otherwise subject to site plan or subdivision review, including but not limited to single-family and duplex development.</td>
<td>This catches all properties with over 1,000 CY of fill or excavation</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td><strong>3</strong> Site preparation activities related to any type of development, including single-family or duplex development, consisting of over 1 acre of disturbed area, including clearing, grubbing, grading and the construction of driveways, entrances, and the installation of driveway culverts.</td>
<td>Less than 5 acres</td>
<td>This Change will deal with larger home sites</td>
<td>Greater than 5 acres</td>
</tr>
</tbody>
</table>

§ 229-3 Fees.
A. Application fee. Any application for any type of site plan review must be accompanied by an application fee set by order of the Town Council. This fee is to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, staff review, and similar costs. The fee shall not be refundable.

B. Technical review fee. A technical review fee may be required to pay reasonable costs incurred by the Board or the Town Planner to review the application for technical conformance with the requirements of this chapter. The municipality shall provide the applicant, upon written request, with
an accounting of his or her account and shall refund all of the remaining moneys in the account after
the payment by the Town of all costs and services related to the review; provided, however, that
where the cost of technical reviews exceeds the amount of moneys in the escrow account, the
applicant shall pay to the Town prior to the issuance of any building permit the amount by which the
technical reviews exceed the amount of moneys in the escrow account.

§ 229-4 Waivers and modifications.
Where the Planning Board or Town Planner finds that there are special circumstances of a particular plan
that make a particular submission requirement or standard inapplicable, a waiver may be granted,
provided that such waiver will not have the effect of nullifying the intent and purpose of the
Comprehensive Plan. The applicant shall submit, in writing, the reason for the requested waiver. In
granting waivers or modifications, the Planning Board or Town Planner may require such conditions that
will substantially secure the objectives of the standards so waived or modified.

§ 229-5 Minor staff review procedure.
A. The applicant shall provide two copies of a complete application packet.
B. The Town Planner shall determine if the application requires Board of Adjustment and Appeals
review. If so, approval by the Board of Adjustment and Appeals shall be required prior to continuing
the process described below.
C. Within 10 days of the receipt of a completed application, the Town Planner will approve or deny the
application in accordance with the provisions of this chapter.
D. The Planning Department will mail notices of the action taken to all abutters within 200 feet of the
site within 10 days of the decision.
E. Submission requirements are listed in Appendix A.

§ 229-6 Major staff review procedure.
A. The applicant shall provide nine copies of a complete application packet.
B. The Town Planner shall determine if the application requires Board of Adjustment and Appeals
review. If so, approval by the Board of Adjustment and Appeals shall be required prior to continuing
the process as described below.
C. A copy of the application shall be provided by the Planning Department to the following members of
the Staff Review Committee: the Public Services Director, Police Chief, Fire/EMS Chief, Code
Enforcement Officer, Economic Development Director, Town Manager, and Chair of the Planning
Board. Comments shall be made on the application, in writing, to the Town Planner within seven
days of the date of the application.
D. The Town shall mail a notice, within three days of the application submission, to all property owners
within 200 feet of the site under review.
E. Within 10 days following the submission of the completed application, the Town Planner shall
review all submitted comments from the Staff Review Committee and residents and, in writing,
approve, approve conditionally, or deny the application in accordance with the provisions of this
chapter. The written decision of the Town Planner shall be mailed to the applicant and property
owners within 200 feet of the site within 10 days of the decision. A copy of the decision shall also be
provided to the Town Manager and other members of the Staff Review Committee. Notice of the
staff approval will be given to the Planning Board at its next meeting.
F. Submission requirements are listed in Appendix B.

§ 229-7 **Planning Board review procedure.**
The Planning Board shall use the following procedures in reviewing applications for site plan review:

A. Preapplication.

(1) Prior to submitting a formal application, the applicant or his/her representative may request a preapplication conference with the Planning Board. The purpose of the preapplication conference is to:

(a) Allow the Board to understand the nature of the proposed use and the issues involved in the proposal;

(b) Allow the Board to understand the location, size, natural resources and general characteristics of the proposed site;

(c) Allow the applicant to understand the development review process and required submissions;

(d) Discuss the need for any waivers from the submission requirements;

(e) Identify issues that need to be addressed in future submissions; and

(f) Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

(2) The preapplication conference shall be informal and informational in nature. There shall be no fee for a preapplication review, and such review shall not cause the plan or any related application to be a pending application or proceeding under 1 M.R.S.A. § 302. No decisions on the substance of the plan shall be made at the preapplication conference.

(3) Submission requirements are listed in Appendix C.

B. Application procedure. All applications must be received by the Town Planner at least 21 days prior to the date of the next Planning Board meeting. The Town Planner will determine if the application is complete. If the application is not complete, the application will not be placed on the Planning Board agenda. For this reason, it is strongly encouraged that applicants meet with the Town Planner prior to the deadline date to review the application materials.

C. Public notice procedure.

(1) The Town Planner shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the applicant shall be notified in writing of this finding, which shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be reviewed until the additional information is submitted. The applicant shall provide all information prior to the deadline date for a subsequent Planning Board meeting. Failure to submit the additional information within six months shall be deemed an abandonment of the application.

(2) Once the application is deemed complete, a notice of the hearing shall be published in a newspaper of general circulation in the community at least once; the date of publication shall be at least seven days prior to the hearing.
(3) The Town Planning Department shall mail a written notice of the date, time, and place of the public hearing at which the application will be considered to the applicant and to all property owners within 200 feet of the parcel on which the proposed development is located.

(4) Failure of any property owner to receive notice under this section for any reason shall not necessitate a new hearing and shall not invalidate any action by the Planning Board.

D. Site walk. The Board may schedule a site walk if deemed necessary. A written notice for such site inspection shall be published at least once in a newspaper of general circulation in the community, and the date of the publication shall be at least seven days prior to the site inspection. Notice shall also be sent by first-class mail to all property owners of record within 200 feet of the parcel on which the proposed development is located.

E. Public hearing procedure.

(1) The purpose of the public hearing is to allow the applicant and affected property owners to provide information as part of the record that the Board will use in considering its action on the application. Testimony presented at the hearing should be related to factual information about the application and related submissions and the project's compliance with the review standards and other regulations and requirements of this chapter or other municipal ordinances.

(2) The Chair shall provide the applicant or his/her representative with an opportunity to make any statement or presentations at the beginning of the hearing. The Chair shall then allow the members of the Board to ask questions of the applicant and the applicant to answer those questions. Following Board questions, the Chair shall open the public hearing to the public for statements, information submissions, or questions about the project. At the close of the public comment period, the Chair shall afford the applicant an opportunity to answer any questions raised by the public, rebut any statements or information submitted, and cross-examine anyone offering testimony on the application. The Chair may allow the applicant this opportunity after each member of the public testifies if that is deemed to be desirable. At the conclusion of the applicant's response, the hearing shall be closed.

F. Procedures for final action on an application.

(1) At the meeting at which final action is requested by the applicant, the Planning Board shall approve, approve with conditions, deny, or table the application. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval and performance standards of this chapter.

(2) In issuing its decision, the Board shall make written findings of fact that establish whether the proposed development does or does not meet the standards of approval, design standards, performance standards, and other requirements of this chapter.

(3) The Board shall notify the applicant of the action of the Board, including the findings of fact and any conditions of approval.

§ 229-8 Financial and technical capacity.

A. Financial capacity. The applicant shall have adequate financial resources to construct the required improvements and meet the criteria of the statute and the standards of these regulations.

B. Technical capacity. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision. In determining the
applicant's technical ability, consideration shall be given to the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

§ 229-9 Performance guarantees.
The purpose of a performance guarantee is to secure the completion of all required improvements or the restoration of the site as the Town deems appropriate. Prior to approval, or as a condition of approval, the applicant shall provide a construction schedule and cost estimate for all required improvements to the Town Planner. Required improvements include, but are not limited to, street and utility construction, stormwater management, landscaping, erosion control, and monumentation. The Town Planner shall submit the cost estimate to the Town Engineer and Town Manager for review and approval.

A. Once the amount for the performance guarantee is set, the applicant shall provide a performance guarantee in one of the following acceptable forms:

1. An escrow account funded by cash or a certified check payable to the Town of Cumberland and governed by an escrow agreement in a form reviewed by the Town Attorney and acceptable to the Town Manager. Any interest earned on the escrowed funds shall be retained by the Town.

2. An irrevocable letter of credit from a financial institution in a form reviewed by the Town Attorney and acceptable to the Town Manager that provides at least 60 days' written notification of expiration. The terms and conditions shall include a maximum two-year time limit and an inflation clause.

3. Any other performance guarantee reviewed by the Town Attorney as to form that provides security in an amount substantially equivalent to an escrow account or an irrevocable letter of credit.

B. Completion of required improvements shall be determined by the Town Manager, who shall receive written certification from the Town Engineer that all improvements assured by the performance guarantee have been constructed in conformance with the approved plan and all applicable codes and ordinances. In addition, the developer shall furnish at his own expense the signed certification by a registered surveyor or civil engineer that all permanent boundary markers or monuments have been installed and are accurately in place in the locations designated in the approved plan.

C. The performance guarantee may, in the discretion of the Town Manager, provide for a partial release of the performance guarantee amount as specific portions of the required improvements are completed.

D. Inspection of required improvements.

1. The following are required improvements: monuments, street signs, water supply, sewage disposal, storm drainage, lighting and signing and pavement markings for traffic control, walking and biking trails, erosion control, or other improvements required by the Board, except where the Board may waive or modify such improvements in accordance with the provisions of these standards.

2. At least five days prior to commencing construction of required improvements, the developer shall pay a fee of not less than 2% of the cost of the required improvements for construction inspections. Any amount in excess of actual cost shall be returned to the developer.

3. If the Town Engineer shall find, upon inspection of the improvements performed before expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the developer, he/she shall so report to the Code Enforcement Officer and Town Planner, who shall then inform the Town Manager. The Town
Manager shall then notify the developer and, if necessary, the bonding company or bank holding the letter of credit and take all necessary steps to preserve the municipality's right under the performance guarantee.

(4) Upon completion of the development, the developer shall notify the municipal officers in writing stating that all improvements have been completed.

§ 229-10 Approval standards and criteria.
[Amended 2-25-2013]

The following criteria shall be used by the Planning Board (if Staff Review, the Town Planner or Staff Review Committee) in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board (if Staff Review, the Town Planner or Staff Review Committee) determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant, who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

A. Utilization of the site. The plan for the development, including buildings, lots, and support facilities, must reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers, must be maintained and preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

B. Traffic, circulation and parking.

(1) Traffic access and parking. Vehicular access to and from the development must be safe and convenient.

(a) Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.

(b) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

(c) The grade of any proposed drive or street must be not more than +3% for a minimum of two car lengths, or 40 feet, from the intersection.

(d) The intersection of any access/egress drive or proposed street must function:

[1] At a Level of Service D, or better, following development if the project will generate 1,000 or more vehicle trips per twenty-four-hour period; or

[2] At a level which will allow safe access into and out of the project if fewer than 1,000 trips are generated.

(e) Where a lot has frontage on two or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote short cutting through the site.
(f) Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.

(g) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

(h) The following criteria must be used to limit the number of driveways serving a proposed project:

[1] No use which generates fewer than 100 vehicle trips per day shall have more than one two-way driveway onto a single roadway. Such driveway must be no greater than 30 feet wide.

[2] No use which generates 100 or more vehicle trips per day shall have more than two points of entry from and two points of egress to a single roadway. The combined width of all accessways must not exceed 60 feet.

(2) Accessway location and spacing. Accessways must meet the following standards:

(a) Private entrances/ exits must be located at least 50 feet from the closest unsignalized intersection and 150 feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

(b) Private accessways in or out of a development must be separated by a minimum of 75 feet where possible.

(3) Internal vehicular circulation. The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

(a) Projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing.

(b) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage ("Fire Lane - No Parking").

(c) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

(d) All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all-season emergency access, snow storage, and delivery and collection services.

(4) Parking layout and design. Off street parking must conform to the following standards:

(a) Parking areas with more than two parking spaces must be arranged so that it is not necessary for vehicles to back into the street.

(b) All parking spaces, access drives, and impervious surfaces must be located at least 15 feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking
spaces or asphalt-type surface shall be located within 15 feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding 24 feet in width.

(c) Parking stalls and aisle layout must conform to the following standards:

<table>
<thead>
<tr>
<th>Parking Angle</th>
<th>Stall Width</th>
<th>Skew Width</th>
<th>Stall Depth</th>
<th>Aisle Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>90°</td>
<td>9' 0&quot;</td>
<td>–</td>
<td>18' 0&quot;</td>
<td>24' 0&quot; 2-way</td>
</tr>
<tr>
<td>60°</td>
<td>8' 6&quot;</td>
<td>10' 6&quot;</td>
<td>18' 0&quot;</td>
<td>16' 0&quot; 1-way</td>
</tr>
<tr>
<td>45°</td>
<td>8' 6&quot;</td>
<td>12' 9&quot;</td>
<td>17' 6&quot;</td>
<td>12' 0&quot; 1-way</td>
</tr>
<tr>
<td>30°</td>
<td>8' 6&quot;</td>
<td>17' 0&quot;</td>
<td>17' 0&quot;</td>
<td>12' 0&quot; 1-way</td>
</tr>
</tbody>
</table>

(d) In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

(e) Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

(f) Provisions must be made to restrict the overhang of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

(5) Building and parking placement.

(a) The site design should avoid creating a building surrounded by a parking lot. Parking should be to the side and preferably in the back. In rural, uncongested areas buildings should be set well back from the road so as to conform to the rural character of the area. If the parking is in front, a generous, landscaped buffer between the road and parking lot is to be provided. Unused areas should be kept natural, as field, forest, wetland, etc.

(b) Where two or more buildings are proposed, the buildings should be grouped and linked with sidewalks; tree planting should be used to provide shade and break up the scale of the site. Parking areas should be separated from the building by a minimum of five to 10 feet. Plantings should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

(6) Pedestrian circulation. The site plan must provide for a system of pedestrianways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect the amenities such as parks or open space on or adjacent to the site.

C. Stormwater management and erosion control.

(1) Stormwater management. Adequate provisions must be made for the collection and disposal of all
stormwater that runs off proposed streets, parking areas, roofs, and other surfaces through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

(a) To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

(b) Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

(c) The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

(d) All natural drainageways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

(e) The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.

(f) The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

(g) The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source or a great pond.

2. Erosion control.

(a) All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earthmoving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

(b) Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991, and as amended from time to time.

D. Water, sewer, and fire protection.

1. Water supply provisions. The development must be provided with a system of water supply that provides each use with an adequate supply of water. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms to its design and construction standards, will not result in an undue burden on the source of distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

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(2) Sewage disposal provisions. The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.

(3) Utilities. The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

(4) Fire protection. The Fire/EMS Chief or his/her designee shall review the site plan for conformance with Chapter 96, Article II, Fire Protection, of this Code and may provide to the Planning Board (if Staff Review, the Town Planner or Staff Review Committee) a list of suggested conditions of approval.

E. Water protection.

(1) Groundwater protection. The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to the public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of 2,000 gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

(2) Water quality. All aspects of the project must be designed so that:

(a) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface water or groundwater so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.

(b) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshal's office.

(3) Aquifer protection. If the site is located within the areas designated as aquifer protection (AP) on the Official Aquifer Protection Map, a positive finding by the Board (if Staff Review, the Town Planner or Staff Review Committee) that the proposed plan will not adversely affect the aquifer is required in accordance with the standards set forth in Chapter 315, Article V, Aquifer Protection, of this Code.

F. Floodplain management. If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with Chapter 105, Floodplain Management, of this Code.

G. Historic and archaeological resources. If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

H. Exterior lighting. The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. All exterior lighting must be designed
and shielded to avoid undue glare, adverse impact on neighboring properties and rights-of-way, and the unnecessary lighting of the night sky.

I. Buffering and landscaping.

(1) Buffering of adjacent uses. The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. The buffer may be provided by distance, landscaping, fencing, changes in grade, and/or a combination of these or other techniques.

(2) Landscaping. Landscaping must be provided as part of site design. The landscape plan for the entire site must use landscape materials to integrate the various elements on site, preserve and enhance the particular identity of the site, and create a pleasing site character. The landscaping should define street edges, break up parking areas, soften the appearance of the development, and protect abutting properties.

J. Noise. The development must control noise levels such that it will not create a nuisance for neighboring properties.

K. Storage of materials.

(1) Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential users and users of public streets.

(2) All dumpsters or similar large collection receptacles for trash or other wastes must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

(3) Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter small children from entering the premises must be provided and maintained in good condition.

L. Capacity of the applicant. The applicant must demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this chapter and the approved plan.

M. Design and performance standards.

(1) Route 100 Design Standards. All development in the Village Center Commercial, Village Office Commercial I and II, and the MUZ Districts shall be consistent with the Town of Cumberland Route 100 Design Standards; in making a determination of consistency, the Planning Board (if Staff Review, the Town Planner or Staff Review Committee) may utilize peer review analysis provided by qualified design professionals.

(2) Route 1 Design Guidelines. All development in the Office Commercial North and Office Commercial South Districts is encouraged to be consistent with the Route 1 Design Guidelines.

(3) Town Center District Performance Standards. All development in the Town Center District is encouraged to be consistent with the Town Center District Performance Standards.
(4) Village Mixed-Use Performance Standards. All development in the Village Mixed-Use Zone (VMUZ) is encouraged to be consistent with the VMUZ Performance Standards.

§ 229-11 Expiration of approval.
[Amended 2-25-2013; 6-17-2013]

Construction of the improvements covered by any site plan approval must be substantially commenced within 12 months of the date upon which the approval was granted. If construction has not been substantially commenced within 12 months of the date upon which approval was granted, the approval shall be null and void. If construction has not been substantially completed within 24 months of the date upon which approval was granted or within a time period as specified by the Planning Board, the approval shall be null and void. The applicant may request an extension of the deadline to commence or complete construction prior to expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two one-year extensions to the period if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

§ 229-12 Standard condition of approval.
[Amended 2-25-2013]

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents, except minor changes as so determined by the Town Planner which do not affect approval standards, is subject to review and approval of the Planning Board (if Staff Review, the Town Planner or Staff Review Committee) prior to implementation. This condition shall be included on all site plans.

§ 229-13 Submission of as-built plans.
The developer of any project involving the construction of more than 20,000 square feet of gross floor area or 50,000 square feet of improvements as actually constructed on the site shall submit as-built plans. These plans must be submitted within 30 days of the issuance of a certificate of occupancy for the project or occupancy of the building.

§ 229-14 Appeals.
If the applicant is dissatisfied with the decision of the Town Planner, he/she may request to have the application reviewed by the Planning Board, which shall conduct a de novo review of the application. The appeal shall be in writing and shall list the specific provision(s) of this chapter upon which the appeal is based. Site plan decisions of the Planning Board are appealed to the Cumberland County Superior Court.

§ 229-15 Conflicting provisions.
Where a provision of this chapter appears to be in conflict with any provision of any other ordinance, rule, regulation, restriction, or statute, that provision which imposes the greater restriction and/or provides for the lesser density of land use shall have precedence.

Attachments:
229a App A Site Plan App, Minor
229b App B Site Plan App, Major

229c App C Planning Board Site Plan App
ITEM
18-041

To hold a Public Hearing to consider and act on forwarding to the Planning Board for a Public Hearing and recommendation, amendments to Chapter 226 (Shoreland Zoning) of the Cumberland Code, as recommended by the Ordinance Committee.
§ 226-25 Piers, wharves, docks, bridges, floats and other structures.

A. Purpose. The purpose of this section is to protect traditional public access to and use of the shore and to minimize adverse impacts on fisheries, on the environment and on public enjoyment of the shoreline, including visual and navigational impacts.

B. Applicability.

(1) This section pertains to construction of, or alteration and repairs to, piers, wharves, docks, bridges, floats and other structures and uses extending over or beyond the mean high-water line of a water body, submerged lands, or wetlands. These are referred to simply as "piers, wharves, docks, bridges, floats and other structures" in the subsections below.

(2) Piers are platforms built with pilings for support; wharves are solid structures built of granite blocks and/or other contiguously placed materials; the term "docks" refers to the docking space alongside or between piers and wharves as well as the piers and wharves themselves (the more common usage). "Other structures" includes, but is not limited to, items such as ramps, marine rails and cribbing.

(3) Functionally water-dependent uses are those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, retaining walls, and uses that primarily provide general public access to coastal or inland waters.

C. Review and approval authority. The Coastal Waters Commission is authorized to review and act on applications for structures in coastal waters or coastal wetlands, except for bridges. All bridges and structures outside of coastal waters or coastal wetlands shall be reviewed by the Code Enforcement Officer. Projects shall be reviewed for conformance with the provisions of this section. The Coastal Waters Commission or the Code Enforcement Officer may act to approve, disapprove, or approve the project with conditions as authorized by these provisions.

(1) Prior to submission of any application, the applicant must obtain all required federal and state permits, including but not limited to a permit from the Department of Environmental Protection under the Natural Resources Protection Act, 38 M.R.S.A. § 480-C, as subsequently amended, and the Army Corps of Engineers.

(2) A completed application and information describing conformance with the provisions of this section shall be submitted to the Code Enforcement Officer for all bridges and to the Town Manager or his/her designee for all wharves, docks, bridges, floats and other structures.

(a) Applications shall include but shall not be limited to:


[3] Building materials to be used.


[7] Plan for annual or seasonal installation and removal (storage) of float, ramp, and pier accessories.

[8] Proof of right title and interest in the property.

(b) The Coastal Waters Commission or the Code Enforcement Officer shall review the documents for completeness. The Coastal Waters Commission shall provide to the Town Council a written advisory recommendation regarding all applications under its jurisdiction and related to this section.

(3) The Town shall notify all property owners within 1,500 feet of the proposed project. In addition, the Town shall place public notices to maximize notification to the affected citizenry. Notices may include the Internet, local papers, and local public places.

(4) The Town Council shall hold a public hearing and issue a wharfing-out permit with or without conditions upon a positive recommendation from the Coastal Waters Commission that the following standards have been met. No Planning Board review is required.

D. Approval standards and criteria. The following standards shall apply to all piers, docks, wharves, floats, bridges, and other structures and uses extending over or beyond the normal high-water line of a water body, submerged lands, or wetland:

(1) Access from the shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

(2) The location shall not interfere with existing developed or natural beach areas.

(3) The facility shall be located so as to minimize adverse effects on fisheries.

(4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf in nontidal waters shall not be wider than six feet for noncommercial uses.

(5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

(6) New permanent piers and docks on nontidal waters shall not be permitted unless it is clearly demonstrated to the Coastal Waters Commission Code Enforcement Officer that a temporary pier or dock is not feasible and a permit has been obtained from the Department of Environmental Protection pursuant to the Natural Resources Protection Act.

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

(8) Except in the General Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland
shall not exceed 20 feet in height above the pier, wharf, dock or other structure.
(9) Structures shall not unduly interfere with passage along or within the intertidal zone in order to protect established colonial rights for fishing, fowling, and navigation. This may require accommodations such as steps or pier elevation to allow passage over or beneath a structure.

(10) Where the applicant has applied for "group dock" and the waterfront structure proposed will serve more than one property, the property owners shall submit to the Town a proposed easement deed demonstrating that permanent access and maintenance rights shall be granted to the parties sharing the structure. The parties shall submit to the Code Enforcement Officer proof of recording of the easement after its review and approval by the Town.

(11) Storage of floats, ramps, and pier accessories is prohibited within the intertidal zone.

(12) Storage of floats, ramps, and pier accessories must comply with all federal, state, and local shoreland zoning rules and regulations.

(13) Lighting on piers, wharves, docks, bridges, floats and other structures should be designed and installed to minimize negative impacts on other properties and to promote safe navigation at night. Negative impacts include excessive lighting and unnecessary glare that can be a hazard to navigation.

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.
ITEM 18-042

To hold a Public Hearing to consider and act on amendments to Chapter 84 (Fees and Fines), Section 12 (Moorings) of the Cumberland Code, as recommended by the Coastal Waters Commission
§ 84-12 Moorings.  
[Amended 12-14-2015]

A. Resident: $50.

B. Nonresident: $250.

C. Relocation Administrative fee: $250 $100. [Added 1-23-2017]

D. Penalty Fee §48-5 and §48-6: $50.00  Dinghy Dockage and Time Limit Penalty Fee: $50.00

E. Mooring Removal Minimum fee: $250.00 plus any added costs incurred by the Town for removing, storing and disposing of the mooring.
ITEM
18-043

To consider and act on a historical sign request on Town Landing Road
Cumberland, a seaside community, has relied on the ocean for food, natural resources, transportation and recreation since the town’s earliest settlers arrived in the area in 1640. In the ensuing 375 years, the land around Town Landing Road has connected the community with the sea. Many shipmasters (captains) and mariners lived in nearby homes. Some were in command of “Cape Horners,” while others commanded regional trading vessels. Many Cumberland residents continue to make their living on and from the sea today.

**Timeline of Town Landing Road**

- **1640**: Cumberland’s first settler, George Felt, lived nearby.
- **1670s–1750s**: Local conflicts raged between native Americans and European settlers.
- **1770s–1780s**: Revolutionary War skirmishes took place.
- **1821**: The Town of Cumberland was incorporated. (Town seceded from North Yarmouth which was incorporated in 1860.)
- **1838**: First Cumberland Town Wharf built.
- **1898**: Portland Electric Railway commenced service along the Foreside, including a stop near Town Landing.
- **1812–1860s**: Spear Shipyard (on this spot) built more than 50 ships, including the clipper bark *Grapeshot*—known for her speed and service during the U.S. Civil War.
- **1917–1945**: Civil Defense volunteers provided “watch” over the Atlantic coastline, helping protect the homeland during World War I and II.

**From this Landing...**

- Fishermen have gone to sea to earn their livelihoods;
- Ships built in Cumberland have been launched into the waves, many of them at the Spear’s Shipyard adjacent to this location;
- Agricultural, forest, ocean, and manufactured products from Maine have been loaded onto great ships destined for ports throughout the world;
- Clammers have worked on the mudflats to harvest our prized shellfish;
- Small craft have headed out for a day on the water;
- Swimmers, hikers, and artists have enjoyed the beauty of the coast.

**The 345-ton clipper bark *Grapeshot* built in Cumberland in 1853.**

**One of Cumberland’s noted ship captains, Reuben Blanchard, circa 1880.**
Proposed new language for Monday night’s Council input.

“George Felt, (1601-1693), one of Cumberland’s first settlers, Pioneer and trader with Native people built a sawmill on Felt’s Stream.“

William R. Shane, P.E.
Town Manager
290 Tuttle Road
Cumberland, Maine 04021

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Fax: 207-829-2224
Cell: 207-232-5258

Sent as a JPEG and PDF

Proposed new language from your submission “George Felt, (1601-1693), one of Cumberland’s first settlers, Pioneer and trader with Native people“