

**TOWN OF FAYETTE**

**LAND USE ORDINANCE**

**as Amended on June 13, 2024**

This document is a true copy of the Town of Fayette Land Use Ordinance  
as amended on June 13, 2024

ATTEST:

A handwritten signature in cursive script, appearing to read "Mark Robinson".

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Mark Robinson, Town Clerk



# TABLE OF CONTENTS

## **Article I. General Provisions**

Section 1. Title.....	I-1
Section 2. Authority .....	I-1
Section 3. Purposes.....	I-1
Section 4. Applicability .....	I-1
Section 5. Land Use District Map.....	I-1
Section 6. Effective Date .....	I-1
Section 7. Availability.....	I-2
Section 8. Severability.....	I-2
Section 9. Conflicts with other Ordinances .....	I-2
Section 10. Amendments .....	I-2

## **Article II. Administration**

Section 1. Administrating Bodies and Agents .....	II-1
Section 2. Regulated Land Uses and Requirements .....	II-2
Section 3. Application Process.....	II-5
Section 4. Appeals .....	II-7
Section 5. Enforcement .....	II-12

## **Article III. Non-Conformance**

Section 1. Purpose.....	III-1
Section 2. General .....	III-1
Section 3. Non-Conforming Structures.....	III-1
Section 4. Non-Conforming Uses .....	III-5
Section 5. Non-Conforming Lots .....	III-5

## **Article IV. Land Use Districts, Use Table, and Dimensional Standards**

Section 1. District Boundaries.....	IV-1
Section 2. Land Use Districts .....	IV-1
Section 3. Land Use Table .....	IV-3
Section 4. Dimensional Requirements.....	IV-6
A. Dimensional Requirements Table.....	IV-6
B. Additional Requirements in Shoreland Zone Districts .....	IV-7
C. Other Dimensional Standards (all Districts) .....	IV-8

## **Article V. Land Use Standards**

Section 1.	Applicability .....	V-1
Section 2.	Wells, Internal Plumbing, and Subsurface Waste Disposal.....	V-1
Section 3.	Campgrounds.....	V-1
Section 4.	Individual Private Campsites .....	V-1
Section 5.	Parking Areas.....	V-1
Section 6.	Signs .....	V-2
Section 7.	Stormwater Runoff.....	V-3
Section 8.	Essential Services.....	V-3
Section 9.	Mineral Exploration and Extraction .....	V-3
Section 10.	Agriculture.....	V-4
Section 11.	Erosion and Sedimentation Control.....	V-4
Section 12.	Soils .....	V-4
Section 13.	Water Quality .....	V-5
Section 14.	Special Protection Areas .....	V-5
Section 15.	Aquifers.....	V-6
Section 16.	Home Occupation .....	V-6
Section 17.	Lighting .....	V-6
Section 18.	Life Safety Occupancy Standards .....	V-6
Section 19.	Mobile Homes and Mobile Home Parks .....	V-7
Section 20.	Automobile Graveyards and Junkyards .....	V-7
Section 21.	Steep Slope Protection .....	V-7
Section 22.	Accessory Dwelling Units.....	V-8
Section 23.	Short-Term Rentals.....	V-8
Section 24.	Public Road Damage.....	V-8

## **Article VI. Driveways and Roads**

Section 1.	Purpose.....	VI-1
Section 2.	Applicability .....	VI-1
Section 3.	Administration.....	VI-1
Section 4.	Submittal Requirements .....	VI-2
Section 5.	Access Permit Review Process and Approval Criteria .....	VI-4
Section 6.	Driveway Permit Review Process and Approval Criteria .....	VI-5
Section 7.	Road Permit Review Process and Approval Criteria .....	VI-6
Section 8.	Driveway and Road Standards.....	VI-7
Section 9.	General Permit Conditions .....	VI-13
Section 10.	Town Acceptance Petition Procedure .....	VI-14

**Article VII. Shoreland Zone Standards**

Section 1. Purpose .....VII-1  
Section 2. Applicability .....VII-1  
Section 3. Interpretation and Conflicts .....VII-1  
Section 4. Additional Performance Standards.....VII-1  
    A. Principal and Accessory Structures .....VII-1  
    B. Campgrounds.....VII-4  
    C. Individual Private Campsites .....VII-4  
    D. Commercial and Industrial Uses .....VII-4  
    E. Parking Areas and Parking Lots .....VII-5  
    F. Roads and Driveways .....VII-5  
    G. Signs .....VII-6  
    H. Septic Waste Disposal .....VII-6  
    I. Essential Services .....VII-6  
    J. Mineral Exploration and Extraction .....VII-6  
    K. Agriculture.....VII-6  
    L. Clearing & Removal of Vegetation for Activities other than Timber Harvesting..VII-7  
    M. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal .....VII-9  
    N. Exemptions to Clearing and Vegetation Removal Requirements .....VII-10  
    O. Revegetation Requirements .....VII-11  
    P. Excavation Contractor Certification Required .....VII-12

**Article VIII. Land Use Review**

Section 1. Purpose.....VIII-1  
Section 2. Applicability .....VIII-2  
Section 3. Submittal Requirements .....VIII-2  
Section 4. Permitting Authority .....VIII-2  
Section 5. Code Enforcement Officer Review Procedure .....VIII-2  
Section 6. Planning Board Review Procedure .....VIII-3  
Section 7. Approval Criteria.....VIII-4

**Article IX. Development Review**

Section 1. Purpose.....IX-1

Section 2. Applicability .....IX-1

Section 3. General Requirements .....IX-2

Section 4. Development Review Procedure.....IX-2

Section 5. Standards for Approval .....IX-8

Section 6. General Permit Conditions .....IX-11

Section 7. Specific Use Submission Requirements and Performance Standards .....IX-11

A. Restaurants, Event Venues and Similar Operations .....IX-11

B. Water Extraction Businesses .....IX-12

C. Wireless Communication Facilities .....IX-14

D. Utility Scale Solar Facilities .....IX-17

**Article X. Subdivision Review**

Section 1. Purpose.....X-1

Section 2. Applicability .....X-1

Section 3. Review Criteria .....X-1

Section 4. Administration and General Procedures .....X-2

Section 5. Sketch Plan Review.....X-5

Section 6. Preliminary Plan Review .....X-6

Section 7. Final Plan Review.....X-8

Section 8. Performance Standards .....X-9

Section 9. Mobile Home Park Standards .....X-14

Section 10. Enforcement.....X-18

**Article XI. Definitions**

## ARTICLE I. GENERAL PROVISIONS

### SECTION 1. TITLE

This Ordinance is known and cited as the Town of Fayette Land Use Ordinance and will be referred to herein as "this Ordinance".

### SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of *Article VIII-A, Part 2 §1 of the Maine Constitution* and the following State statutes: *30-A M.R.S. §3001 (Home Rule)*, *30-A M.R.S. §4311 et seq. (Comprehensive Planning and Land Use Regulation, or Growth Management Act)*, *38 M.R.S. §435 et seq. (Mandatory Shoreland Zoning Act)*, *30-A M.R.S. §4401 et seq. (Subdivision Law)*, and *30-A M.R.S. §§4364-4364-B (Affordable Housing Density, Dwelling Units Per Lot and Accessory Dwelling Unit Laws)*.

### SECTION 3. PURPOSES

- A. To promote, protect and facilitate the health, safety and general welfare of Fayette residents
- B. To protect and conserve our land, water, fisheries and wildlife, soils, scenic, recreational and natural resources
- C. To protect our rural character
- D. To promote sound land use practices and conservation through the regulation of certain land use activities including, but not limited to, building sites and placement of structures, sanitary waste disposal, resource extraction, and the construction of driveways and roads
- E. To anticipate impacts of development
- F. To advance the Growth Management Policies and Strategies for Implementation set forth in our Comprehensive Plan

### SECTION 4. APPLICABILITY

All structures and land uses within the boundaries of Fayette shall comply with the conditions and provisions of this Ordinance.

### SECTION 5. LAND USE DISTRICT MAP

The Town of Fayette Land Use District Map is hereby incorporated as part of this Ordinance. The official map shall be drawn at not less than 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district will be placed on the map. The official Land Use District Map shall be certified by the attested signature of the Town Clerk and located in the Town Office with a digital copy available on the Town Web Site.

### SECTION 6. EFFECTIVE DATE

- A. Adoption and Amendment History This Ordinance was adopted by the Town of Fayette on June 14, 2008 and subsequently amended on June 13, 2009, June 17, 2017, November 8, 2022, June 13, 2023, and November 7, 2023.
- B. Current Amendment The amendment of June 13, 2024 is effective upon passage and simultaneously repeals the *Town of Fayette Utility Scale Solar Energy Ordinance (2023)*, the *Town of Fayette Subdivision Ordinance (1999)*, and the *Ordinance Relating to the Acceptance of New Town Roads (1987)*.

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NOTES:

1. The essential elements of the three repealed ordinances have been incorporated into the amended version of this Ordinance.
  2. A record of all amendments to this Ordinance are on file at the Town Office.
  3. Amendments impacting Shoreland Zone Districts are subject to approval by the Commissioner of Environmental Protection as provided in Section 10.C below.
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**SECTION 7. AVAILABILITY**

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. A digital copy may be viewed or downloaded from the Town Web Site. Paper copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted at the Town Office and on the Town Web Site.

**SECTION 8. SEVERABILITY**

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

**SECTION 9. CONFLICTS WITH OTHER ORDINANCES**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the Town of Fayette, the more restrictive provision shall control.

**SECTION 10. AMENDMENTS**

- A. Initiation An amendment to this Ordinance may be initiated by:
1. The Planning Board, provided that there is a quorum vote of the members
  2. Request of the Select Board to the Planning Board or special committee established for this purpose
  3. Written petition of a number of voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election and submitted to the Select Board
- B. Public Hearing Requirements The Planning Board shall hold at least one (1) public hearing on the proposed amendment prior to a vote at a Town Meeting. Notice of the hearing shall be posted at least fourteen (14) days in advance in the Town Office and shall be published at least seven (7) days in advance in at least two (2) newspapers of general circulation in the area. Property owners affected by the proposed amendment shall be notified as required by 30-A M.R.S. §4352.
- C. Shoreland Zone District Amendments Copies of amendments regarding Shoreland Zone Districts (Resource Protection, Stream Protection, Wetland Protection and Lakefront) attested to and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment the amendment is automatically approved. Any application for a permit regarding any Shoreland Zone District, submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner. Any changes to the official Land Use District Map shall be made within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.



- D. Waiting Period for Failed Amendments No proposed changes in the Ordinance which have been unfavorably acted upon by the Town Meeting shall be considered within two (2) years after the date of such unfavorable action unless adoption of the proposed change is recommended by the vote of a majority of the Planning Board.
- E. Town Clerk Authorization At any time this Ordinance is amended, the Town Clerk is authorized to insert and/or delete amendments, add and/or delete inconsistent references caused by such amendment(s), and renumber sections of the amended Ordinance in a logical and appropriate fashion, provided said changes do not result in any substantive alteration in the meaning of the Ordinance.

## ARTICLE II. ADMINISTRATION

### SECTION 1. ADMINISTERING BODIES AND AGENTS

The following bodies and agents shall be responsible for administering portions of this Ordinance as outlined below.

#### A. CODE ENFORCEMENT OFFICER

The Code Enforcement Officer (CEO) shall be appointed annually in July and has principal responsibility for administering this Ordinance. Duties include but are not limited to informing the public, managing a permit application and review process, interpreting the provisions of this Ordinance, conducting on-site inspections, issuing permits and Certificates of Occupancy, advising the Planning Board and Select Board, and addressing violations.

#### B. PLANNING BOARD

The Town of Fayette Planning Board shall be responsible for reviewing and approving applications for subdivisions, roads, and those land uses and developments so assigned in the Land Use Table - Article IV, Section 3. The Planning Board also continually monitors the performance of this Ordinance relative to meeting the Town's needs and proposes amendments for consideration when recommended.

#### C. BOARD OF APPEALS

The Town of Fayette Board of Appeals shall be responsible for hearing and deciding advisory, administrative and variance appeals as authorized by State Law, the Town of Fayette Administrative Ordinance, and this Ordinance.

#### D. LOCAL PLUMBING INSPECTOR

The Local Plumbing Inspector (LPI) shall be appointed annually in July and shall be responsible for all inspections, permits and enforcement related to the State's Subsurface Wastewater Disposal and Internal Plumbing Rules, and all other specified duties assigned in this Ordinance.

#### E. ROAD COMMISSIONER

The Road Commissioner shall be appointed annually in July and is responsible for issuing Access Permits, advising on Driveway, Road and Land Use Permits impacting a Town right-of-way, managing the installation of culverts in the Town right-of-way and inspecting roads during and following construction for compliance with the standards within this Ordinance. The Road Commissioner also monitors and may enforce land use activities impacting public safety in Town-maintained rights-of-way.

#### F. SELECT BOARD (MUNICIPAL OFFICERS)

The Select Board shall be responsible for issuing annual Junkyard Permits in accordance with *30-A M.R.S. §3751 et seq.*, approving enforcement actions, and seeing that other officials are properly appointed and performing their designated functions. The Board shall provide the necessary authorization and support for the CEO in enforcing the provisions of this Ordinance, including the retention of an attorney if necessary to assist in the prosecution of a serious violation.

#### G. TOWN CLERK

The Town Clerk is responsible for certifying and maintaining the official copies of this Ordinance and the Land Use District Map, as well as incorporating amendments as provided in Article 1, Section 10.E.

## **SECTION 2. REGULATED LAND USES AND REQUIREMENTS**

### **A. LAND USE STANDARDS**

All land uses, regardless of whether a notification, permit, or specific approval is required, are subject to the Land Use Standards outlined in Article V. Any failure to comply with these standards may result in enforcement actions as provided in Article II, Section 6.

### **B. NOTIFICATIONS, PERMITS, AND APPROVALS**

After the effective date of this Ordinance, no person shall engage in any regulated land use activity without first providing the required notification or obtaining the applicable permit or approval.

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NOTE: No Town notification or permit is required for timber harvesting, routine property maintenance or activities labeled as YES in the Land Use Table - Article IV, Section 3.

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### **C. UTILITY CONNECTIONS PROHIBITED**

No utility company of any kind may install services to a new structure, dwelling unit, business, or other entity unless written authorization of all local permits required under this Ordinance has been issued by the appropriate municipal official.

### **D. NOTIFICATION REQUIRED**

Land Use Notification to the Code Enforcement Officer on a form established for that purpose is required at least fourteen (14) days prior to conducting the following activities, which must comply with all applicable Dimensional and Land Use Standards:

1. Digging or drilling a well (See Article 5, Section 2)
2. Constructing or placing one free-standing accessory structure of two hundred (200) square feet or less per year, provided it is used for neither residential nor non-agricultural commercial purposes
3. Intent to construct a roadside distribution line of 34.5kV or lower in allowed districts
4. Archaeological excavation conducted by an archaeologist listed on the State Historic Preservation Officer's Level 1 or Level 2 approved list

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#### **NOTES:**

1. An emergency replacement of a well is not expected to meet the advance notice requirements, but the Code Enforcement Officer shall be notified as soon as possible.
2. No fee is charged for a Land Use Notification. However, failure to file a Notification may result in fines as follows:
  - a. First offense- \$50.00
  - b. Second offense- \$200.00
  - c. Third offense- \$500.00

Fines for subsequent violations will be determined by the Select Board and may require a consent agreement and forfeiture of the privilege to file a notification. Fines may not exceed those authorized in *30-A M.R.S. §4452*.

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## E. PERMIT REQUIRED

Permits are required for land use activities in one or more land use districts (see Land Use Table - Article IV, Section 3) as follows. A copy of the permit must be available on-site while the work authorized by the permit is being performed.

### 1. Land Use Permit

#### A. Townwide

- (1) Construction, placement, enlargement, alteration, movement, or demolition of any structure, including a mobile home
- (2) Adding or removing a bedroom in an existing dwelling unit, regardless of the change to the building footprint
- (3) Creation of a principal or accessory dwelling unit (more than two (2) units on a single lot require a Development Permit)
- (4) Any new, repurposed, or expanded commercial, industrial, governmental, or institutional use that does not require a Development Permit
- (5) Installing a free-standing sign
- (6) Filling and/or earth moving of over one hundred (100) cubic yards per calendar year
- (7) Creation of a new or expanded parking lot
- (8) Existing licensed summer camps, campgrounds, and other non-permitted facilities renting their property for use by others
- (9) Family burial plot
- (10) Individual private campsite
- (11) Simultaneous short-term rental of more than one dwelling unit or portion thereof on a lot
- (12) Any other low impact use as specified in the Land Use Table (Article IV, Section 3)

#### B. Shoreland Zone Districts Only

- (1) Fill and earth moving of over ten (10) cubic yards per calendar year
- (2) Clearing or removal of vegetation for purposes other than timber harvesting
- (3) Creation of a new or expanded parking area
- (4) Home occupation
- (5) Essential services
- (6) Agriculture

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NOTE: While the Code Enforcement Officer issues land use permits, approval may be required by the Planning Board (see Land Use Table - Article IV, Section 3). If sufficiently complex, the Planning Board may determine that any of the above uses requires a multi-staged review process normally conducted for a Development Permit.

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### 2. Subsurface Wastewater Disposal Permit

- a. Installation of a new or replacement septic or wastewater treatment system
- b. Conversion of seasonal to year-round residence in a Shoreland Zone District

### 3. Internal Plumbing Permit

Any new or replacement internal plumbing as required by 10-144 Code of Maine Regulations, Chapter 238.

4. Development Permit (See Article IX)

- A. Any new, repurposed, or expanded use that is expected to generate over fifty (50) vehicle trips per day
- B. Any new development or expansion, that when combined with existing development, will result in more than twenty thousand (20,000) square feet of combined building and non-vegetated surface area
- C. New and existing commercial gravel and mineral extraction operations (defined as removing one hundred (100) cubic yards or more of material in any (12-) twelve-month period)
- D. Three (3) or more dwelling units located on one lot if not approved as a subdivision
- E. Campground
- F. Cemetery
- G. Marina
- H. Restaurant, event venue or similar operation
- I. Water extraction business
- J. Wireless telecommunication facility
- K. Utility scale solar facility
- L. Any new or expanded land use activity that has the potential to emit more than a background level of noise, odor, smoke, fumes, or other possible nuisance to neighbors without targeted mitigation in place

5. Access Permit (See Article VI)

Any new or expanded trail, inclusive of hiking, mountain bike, all-terrain vehicle (ATV) and snowmobile trails, logging accessway or farm field accessway, intersecting with a town-maintained road or right-of-way.

6. Driveway Permit (See Article VI)

Any new or expanded accessway designed for motor vehicles serving up to two (2) lots and/or (4) dwelling units intersecting with a town-maintained road or right-of-way.

7. Road Permit (See Article VI)

Any new or expanded accessway designed for motor vehicles serving more than the limits of driveways intersecting with a town-maintained road or right-of-way.

F. APPROVAL REQUIRED

No subdivision may be recorded at the Registry of Deeds without the formal approval of the Planning Board as provided in Article X.

G. CERTIFICATE OF OCCUPANCY

No newly constructed or substantially reconstructed dwelling unit may be occupied without a Certificate of Occupancy obtained from the Code Enforcement Officer confirming that the structure meets NFPA 101 Life Safety Standards.

H. OTHER LAWS AND ORDINANCES

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

## SECTION 3. APPLICATION PROCESS

### A. PERMIT APPLICATION

1. Written Application Every applicant for a permit shall submit a written application (including a scaled site plan) on a form provided by the town to the appropriate official as indicated in Section 2. Required submittal information varies by permit type and level of complexity. See the appropriate Article in this Ordinance for detailed submittal requirements.
2. Right, Title, and/or Interest All applications shall be signed by an owner or individual who can show evidence of right, title, or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
3. Dates Recorded All applications shall be dated, and the town official receiving the application shall note upon each application the date and time of its receipt.
4. Plumbing Permits Required A valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Licensed Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

### B. FEES

1. Policy and Authorization to Set Fees It is the policy of the Town to set application fees at a modest level, scaled to the degree of complexity, direct costs and work entailed to review the application. The Select Board is hereby authorized and instructed to establish a reasonable schedule of application fees, in the form of a set amount and/or reimbursement for actual town expenses, as the Board shall deem fit, revised if necessary to meet the intentions expressed above. The Planning Board shall advise the Select Board in this area.
2. Waiver provisions for Excess Fees When a single activity requires more than one type of permit, the Code Enforcement Officer or the Planning Board may waive a portion of the fees assessed if the total is deemed to be inappropriate relative to the cost of review. In such cases, the applicant shall remit all fees with each application to begin the process; any decision to waive a portion of fees will be done after all work on the Town's part has been completed.
3. Professional Review Fees In order to perform its due diligence for more complex proposals, the Planning Board may determine the need to hire its own consultant to conduct additional studies or perform a peer review of the entire, or portions of, a Development Permit or Subdivision Application. The cost to perform additional studies or hire a consultant shall be borne by the applicant. Applicants refusing to cover this cost shall have the option to withdraw their application.

The Planning Board will obtain a proposal from at least one qualified peer reviewer of its choice and notify the applicant of the expected charge prior to incurring the charge. The Planning Board will require the applicant to deposit with the Town the estimated cost of any consultant or additional study. The deposit shall be placed in an escrow account. The Town shall pay for the services rendered and reimburse the applicant if funds remain after payments are completed. As necessary and agreed upon prior to incurring charges, the applicant shall place additional funds into the escrow account in order to meet expenses.

### C. APPLICATION REVIEW PROCEDURE

1. Determination of Complete Application Within thirty-five (35) days of the date of receiving a written application with the required fee, the permitting official as noted in the Land Use Table - Article IV, Section 3, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.
2. Abutter Notices Abutter notices shall be provided for Land Use, Development, and Subdivision Applications. For Land Use Permits authorized by the Code Enforcement Officer, abutters will receive a notice after a permit has been approved, advising abutters of the thirty (30) day opportunity to file an Appeal with the Board of Appeals. For permits authorized by the Planning Board, abutters will receive a notice that the application has been received and the date and time of its consideration before the Planning Board. Notice may be given by electronic or postal mail delivery. No additional abutter notices are required to be given, including for public hearings, if notice of the pending application has already been provided.
3. Courtesy Notice For dug and drilled wells only, as provided in Article V, Section 2, the Code Enforcement Officer will notify abutters by public posting on the property site, or by individual contact to the extent feasible, that a well is expected to be installed on a parcel of land. This notice is provided to enable abutters to ask questions of or provide information to the person having the well installed, or to their designated agent or contractor.
4. Applicant Attendance at Planning Board Meetings It is strongly recommended that the applicant or their designated agent attend the meeting at which an application is considered to present information and answer questions. If an applicant is unavailable, the application may be tabled until such time as the applicant is available.
5. Site Visits If a site visit is held by the Planning Board or Board of Appeals, appropriate public notice shall be provided. A quorum of members is not required to conduct a site visit. Site visits are only to gather information. The CEO or a designated member should record notes, which should be incorporated into the record at the next public meeting. No substantive discussion of an application may be held, or decisions made, during the site visit.
6. Public Hearings If a public hearing is held, it shall be scheduled within thirty (30) days of the date of acceptance of the complete application. At least ten (10) days' public notice shall be provided by posting at the Town Office and on the Town Web Site. A quorum of the Planning Board must be present to conduct the public hearing.
7. Timing of Actions The Road Commissioner, Planning Board, Licensed Plumbing Inspector, or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within thirty-five (35) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty-five (35) days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.
8. Burden of Proof The applicant shall have the burden of proving that the proposed land use or development activity is in conformity with the purposes and provisions of this Ordinance.
9. Approval Criteria After the submission of a complete application to the CEO or Planning Board, the permitting authority shall approve an application if it makes a positive finding based on the information presented that the proposed use, if conducted with any conditions that may be imposed, will meet the provisions of this Ordinance.

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NOTE: See Article VI for Access, Driveway and Road Permit Approval Criteria, Article VIII for Land Use Approval Criteria, Article IX for specific Development Permit Approval Criteria, and Article X for Subdivision Approval Criteria.

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10. Performance Bond A performance bond may be required as a condition when the Planning Board finds anyone or more of the following items included in the proposal:
  - a. The project includes the construction of a public improvement such as a road or other structure that will be proposed for Town acceptance
  - b. The project is adjacent to an environmentally sensitive area (such as a wetland or other resource) and the installation of erosion control measures or phosphorus control measures are critical to protecting the area
  - c. The project will be expensive to decommission at the end of its useful life and will cause a public nuisance if not returned to natural conditions.

The performance bond, when required, shall be set at no less than an amount equal to the anticipated expense of installing the particular item and made payable to the Town, issued by a surety company. Details will be determined on a case-by-case using guidelines in applicable sections of this Ordinance with an eye toward future potential cost escalations.

The performance bond may be released after the Planning Board, or its designee, conducts an inspection of the project to determine if the construction and performance requirements of this Ordinance have been followed. Failure to conform to the conditions of the performance bond shall be deemed a violation of this Ordinance.

11. Record of Decision If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. All permit applications and records of decision will be maintained as a permanent record by the Town.
12. Material Representations Every permit shall contain the following statement: "This permit is issued on the condition that all material representations made by the applicant are true. The Town may revoke or amend a permit it has approved, if, after a hearing, it concludes that a material representation was inaccurate or missing." Permits issued by the CEO or Road Commissioner may be revoked after a hearing by the Select Board. Permits issued by the Planning Board may be revoked by the Planning Board.
13. Limitations on Authority No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, regulation or statute administered by the municipality.

#### D. EXPIRATION OF A PERMIT

Permits shall expire two (2) years from the date of issuance if a substantial start (30% completion) is not made in construction or in the use of the property during that period. If a substantial start is made within two years of the issuance of the permit, and no concerns have been raised, the Code Enforcement Officer may choose to extend the permit for one (1) additional year.

#### SECTION 4. APPEALS

- A. Any person aggrieved by a decision of the CEO, Road Commissioner, or Planning Board, other than a subdivision application decision, may appeal such decision to the Board of Appeals within thirty (30) days of the written decision by filing an appeal at the office of the Town Clerk on forms approved by the Board of Appeals.

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#### NOTES:

1. Notwithstanding subsection A above, notices of violation, enforcement orders, suspensions or revocations of permits or approvals, written determinations of no violation, or any other enforcement decisions of the CEO may not be appealed.
  2. An aggrieved party may appeal any final subdivision application decision of the Planning Board to Superior Court within thirty (30) days of the Board's issuance of a written decision, in accordance with *30-A M.R.S. §4353*, and *Rule 80B of the Maine Rules of Civil Procedure*.
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- B. All appeals and requests for reconsideration must be accompanied by a fee as set by the Select Board.
- C. Appeals from decisions of the CEO and Road Commissioner, and decisions of the Planning Board made without conducting a public hearing, are de novo. The CEO must transmit to the Board of Appeals the decision and all documents and other evidence on which the decision was based, which may be considered as evidence in the de novo proceeding. The Board of Appeals must conduct a public hearing at which all persons have the right to present additional testimony and documentary evidence. The standard of review is whether, on the basis of the evidence before the Board of Appeals, the application complies with the requirements of this Ordinance. The burden of proof is on the applicant for the permit or approval. The Board of Appeals has authority to grant or deny a permit or approval or to remand the matter to the CEO or Planning Board for further proceedings.
- D. Appeals from decisions of the Planning Board made after conducting a public hearing are purely appellate. The CEO must transmit to the Board of Appeals the decision of the Planning Board and all documents and other evidence comprising the record on which the Planning Board decision was based. The Board of Appeals must conduct a public proceeding at which all persons have the right to present legal argument concerning the decision of the Planning Board. The Board of Appeals may not permit the introduction of additional testimonial or documentary evidence. The standard of review is whether the decision of the Planning Board was arbitrary or capricious, based on error of law, or based on findings of fact not supported by substantial evidence in the record. The Board of Appeals has authority to sustain or reverse a decision of the Planning Board or to remand the matter to the Planning Board for further proceedings.
- E. The Board of Appeals may not continue a public hearing on an appeal to a future date except for good cause.
- F. The affirmative vote of no less than three members of the Board of Appeals is necessary to grant an approval or permit on appeal from a decision of the CEO or to grant an appeal from a decision of the Planning Board. The failure of the Board of Appeals to issue a written notice of its decision, directed to the appellant by registered mail, within 35 days of the close of the public hearing constitutes a denial of the appeal.
- G. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure maximum conformance with the purposes and provisions of this Ordinance, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any condition imposed.
- H. Any aggrieved party may appeal a decision of the Board of Appeals to the Maine Superior Court within 45 days of the date of the vote of the Board of Appeals in accordance with *30-A M.R.S. §§ 2691 and 4353*, and *Rule 80B of the Maine Rules of Civil Procedure*.
- I. In accordance with *30-A M.R.S. §2691(3)(F)*, the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

- J. Excepting a conflict with state law, the Board of Appeals hears and decides variance requests in accordance with the following review procedures:
1. Variance Application An application for a variance must be submitted in writing to the Board of Appeals on forms provided by the Town for that purpose and signed and dated by the applicant. Each application must be accompanied by:
    - a. The applicable fee
    - b. A written statement and other evidence demonstrating that the proposal satisfies each of the applicable standards in subsection K below
  2. Copy of Variance Application to DEP For any variance request within the shoreland zone, the Board of Appeals must forward a copy of each variance request, including the application and all supporting information supplied by the applicant, to the DEP Commissioner at least 20 days prior to action by the Board of Appeals. Any comments received from the DEP Commissioner prior to the action by the Board of Appeals must be made part of the record and must be considered by the Board of Appeals prior to taking action on the variance request.
  3. Notice and Public Hearing The Board of Appeals must hold a public hearing on each variance request. The Code Enforcement Officer must give notice of the public hearing in accordance with Sub-section 3.C.6 above and notify abutters by electronic or postal mail. Failure of any property owner to receive notice of the public hearing will neither necessitate another public hearing nor invalidate any action of the Board of Appeals.
  4. Written Decision The Board of Appeals must state the reasons and basis for its decision in writing. The Board of Appeals must cause written notice of its decision to be mailed or hand-delivered within seven days of the decision to the applicant and, when a variance is issued for property located within shoreland zone, to the DEP Commissioner.
  5. Certificate and Recording If the Board of Appeals grants a variance pursuant to this Section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, must be prepared in recordable form.

This certificate must be recorded by the applicant in the Kennebec County Registry of Deeds within 90 days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the final written approval is the date stated on the written approval.
  6. Conflict with State Law In the event of a conflict between this Section and 30-A *M.R.S. §§ 4353(4), 4353(5), or 4353-A*, the state law provision controls.

K. VARIANCES AUTHORIZED

1. CEO Authority to Issue Disability Structures Land Use Permit The CEO may issue a land use permit to the owner of a dwelling unit for the purpose of making that dwelling unit accessible to a person with a disability who resides in or regularly uses the dwelling unit. If the land use permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling unit by the person with the disability.
  - a. The CEO may impose conditions on the permit granted under this subsection, including limiting the permit to the duration of the disability or to the time that the person with the disability lives in the dwelling unit.

- b. All medical records submitted to the CEO and any other documents submitted for the purpose of describing or verifying a person's disability are confidential.
      - c. For purposes of this subsection, the term "structures necessary for access to or egress from the dwelling unit" includes ramps and associated railings, walls, or roof systems necessary for the safety or effectiveness of the ramps.
      - d. Certificate and Recording If the CEO issues a building permit under this subsection 1, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, and indicating the fact that a disability structure land use permit, including any conditions on the permit, has been granted and that the permit is deemed to include a variance, and the date of the issuance, must be prepared in recordable form. This certificate must be recorded by the applicant in the Kennebec County Registry of Deeds within 90 days of the date of the issuance of the permit or the variance is void. The variance is not valid until recorded as provided in this subsection. For the purpose of this subsection, the date of the issuance of the land use permit is the date stated on the permit.
2. Disability Vehicle Storage Variance The Board of Appeals may grant a variance to an owner of a dwelling unit who resides in the dwelling unit and who is a person with a permanent disability for the construction of a place of storage and parking for a noncommercial vehicle owned by that person and no other purpose. The width and length of the structure may not be larger than two times the width and length of the noncommercial vehicle. The owner must submit proposed plans for the structure with the request for the variance pursuant to this subsection to the Board of Appeals.
  - a. The person with the permanent disability must prove by a preponderance of the evidence that the person's disability is permanent.
  - b. For purposes of this subsection E, "noncommercial vehicle" means a motor vehicle as defined in 29-A M.R.S. §101(42) with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to 29-A M.R.S § 521, and owned by the person with the permanent disability.
  - c. The Board of Appeals may impose conditions on any variance granted under this subsection.
  - d. All medical records submitted to the Board of Appeals and any other documents submitted for the purpose of describing or verifying a person's disability are confidential.
3. Practical Difficulty Variance from Dimensional Standards As used in this Ordinance, a Practical Difficulty Variance is authorized only for Dimensional Standards (meaning lot area, lot coverage, frontage, and setbacks) for properties not located in the Shoreland Zone. The Board of Appeals may grant a variance from the dimensional standards of this Code when strict application of the dimensional standards to the applicant and the applicant's property would cause a practical difficulty and when the following conditions exist:
  - a. The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood
  - b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties
  - c. The practical difficulty is not the result of action taken by the petitioner or a prior owner
  - d. No other feasible alternative to a variance is available to the applicant

- e. The granting of a variance will not unreasonably adversely affect the natural environment, and
  - f. The property is not located in whole or in part within the shoreland zone
  - g. As used in this subsection 3:
    - 1. “Dimensional standards” means and is limited to those provisions of this Ordinance relating to lot area, lot coverage, lot frontage, and setback requirements.
    - 2. “Practical difficulty” means that the strict application of the dimensional standards of this Ordinance to the property for which a variance is sought would preclude the ability of the applicant to pursue a use of the property which is allowed in the district in which the property is located and would result in significant economic injury to the applicant.
    - 3. “Significant economic injury” means the value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.
4. Setback Variance for Single-family Dwellings The Board of Appeals may grant a variance from the minimum and maximum setback requirements of this Code for a single-family dwelling that is the primary year-round residence of the applicant only when the Board of Appeals determines that strict application of the Code to the applicant and the applicant’s property would cause an undue hardship. A variance granted under this subsection 4 may not exceed 20% of the applicable setback requirement and may not be granted if the variance would cause the area of the single-family dwelling to exceed the maximum lot coverage. For purposes of this subsection 4, “undue hardship” means:
- a. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood
  - b. The granting of a variance will not alter the essential character of the locality
  - c. The hardship is not the result of action taken by the applicant or a prior owner
  - d. The granting of the variance will not substantially reduce or impair the use of abutting property, and
  - e. The granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available
5. Undue Hardship The Board of Appeals may grant a variance if a proposed structure or use complies with all of the provisions of this Code except for the specific provisions from which relief is sought, and only when strict application of this Code to the applicant and the applicant’s property would cause undue hardship. The term “undue hardship” as used in this subsection 5 means:
- a. The land in question cannot yield a reasonable return unless a variance is granted
  - b. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood
  - c. The granting of the variance will not alter the essential character of the locality, and
  - d. The hardship is not the result of action taken by the applicant or a prior owner

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NOTE: The establishment of a new use or the expansion of an existing use that is otherwise prohibited in the district in which the use is located is not allowed by variance.

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## SECTION 5. ENFORCEMENT

### A. NUISANCES

Any violation of this Ordinance shall be deemed to be a nuisance.

### B. CODE ENFORCEMENT OFFICER

1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
2. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
3. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

### C. LEGAL ACTIONS

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

### D. FINES

Any person, including but not limited to a landowner, a landowner's agent, or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S. §4452.

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NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5000 (38 M.R.S. §4452).

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## ARTICLE III. NON-CONFORMANCE

### SECTION 1. PURPOSE

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto, shall be allowed to continue, subject to the requirements set forth in this Article. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

### SECTION 2. GENERAL

- A. Legal non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the legal non-conforming structure or lot, subject to the provisions of this Ordinance.
- B. This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs and renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require.

### SECTION 3. NON-CONFORMING STRUCTURES

#### A. EXPANSION

A legal non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs 1.a-f below:

1. Legally existing non-conforming principal and accessory structures that do not meet the current water body, tributary stream or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met:
  - a. Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream or upland edge of a wetland is prohibited, even if the expansion will not increase non-conformity with the water body, tributary stream or wetland setback requirement.
  - b. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase non-conformity with the water body, tributary stream or wetland setback requirement.
  - c. For structures located between 25 and 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.
  - d. For structures located between 75 and 100 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75 and 100 feet distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 75 and 100 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of paragraph A1(c), above.
  - e. For the purpose of Section 3A (1) above, a basement is not counted toward floor area.
  - f. See definition of Increase in Nonconformity of a Structure.

2. Whenever a new, enlarged, or replacement foundation is constructed under a legal non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 3C(l), Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first-floor sill), it shall not be considered to be an expansion of the structure.

#### B. SPECIAL EXPANSION ALLOWANCE

1. Limited Allowance Existing principal and accessory structures that exceed the floor area or height limits set forth in Section 3 A1(c)(d), above may not be expanded, except that the limits may be exceeded by not more than 500 square feet provided that all of the following requirements are met:
  - a. The principal structure is set back at least 50 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland
  - b. A well-distributed stand of trees and other natural vegetation as defined in Article VII, Section L), below, extends at least 50 feet, horizontal distance, in depth as measured from the normal high-water line of a water body or upland edge of a wetland for the entire width of the property. If a "well distributed stand of trees and other vegetation," meeting the requirements of Article VII, Section L below, is not present, the 500 square foot special expansion allowance may be permitted only in conjunction with a written plan, including a scaled site drawing, by the property owner, and approved by the Planning Board to reestablish a buffer of trees, shrubs, and other ground cover within fifty (50) feet, horizontal distance, of the shoreline or tributary stream.
  - c. Adjacent to water bodies, tributary streams, and wetlands, except for the allowable footpath, there exists complete natural ground cover, consisting of forest duff, shrubs, and other woody and herbaceous vegetation within 50 feet, horizontal distance, of the normal high-water line. Where natural ground cover is lacking, the area must be supplemented with leaf or bark mulch with a minimum thickness of 4 inches and plantings of native shrubs, and other woody and herbaceous vegetation in quantities sufficient to retard erosion and provide for effective infiltration of storm water.
  - d. A written plan by the property owner, including a scaled site drawing (if required by the Planning Board), is approved by the Planning Board and is developed, implemented, and maintained to address the following mitigation measures for the property within the Shoreland Zone:
    - (1) Unstabilized areas resulting in soil erosion must be mulched, seeded, or otherwise stabilized and maintained to prevent further erosion and sedimentation to water bodies, tributary streams, and wetlands.
    - (2) Roofs and associated drainage systems, driveways, parking areas, and other non-vegetated surfaces must be designed or modified, as necessary, to prevent concentrated flow of storm water runoff from reaching a water body, tributary stream, or wetland. Where possible, runoff must be directed through a vegetated area or infiltrated into the soil through the use of a dry well, stone apron, or land depressions. Avoid directing flow into septic systems and wells.
    - (3) The Planning Board may require the current wastewater disposal system to be approved by the Local Plumbing Inspector.

2. Planting Requirements Any planting or re-vegetation required as a condition to the Special Expansion Allowance must be in accordance with a written plan drafted by a qualified professional, shall be implemented at the time of construction, and be designed to meet the rating scores contained in Article VII, Section L below, and ground cover requirements in paragraph c, above, when the vegetation matures within the fifty (50) foot strip. At a minimum, the plan must provide for the establishment of a well-distributed planting of saplings spaced so that there is at least one sapling per 80 square feet of newly established buffer. Planted saplings may be no less than 3 feet tall for coniferous species and no less than 6 feet tall for deciduous species. The planting plan must include a mix of at least 3 native tree species found growing in adjacent areas, with no one species making up more than 50% of the number of saplings planted, unless otherwise approved by the Planning Board, based on adjacent stand comparison. All aspects of the implemented plan must be maintained in a timely manner, including the replacement of dead and dying plants and washed-out mulch, by the applicant as well as by future owners. The Planning Board shall make specific findings of fact showing that the proposed change will be environmentally beneficial or have no adverse impact on the environment.
3. Filing and Reporting Requirements Written plans required pursuant to this Section must be filed with the Kennebec County Registry of Deeds. A copy of all permits issued pursuant to this Section must be forwarded by the Town to the Department of Environmental Protection within 14 days of the issuance of the permit.

#### C. RELOCATION

A legal non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements as stated in the Table of Dimensional Requirements (Article IV, Section 4) to the greatest practical extent in regard to the resource as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules.

1. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming. A structure that is relocated in the Shoreland Zone cannot be placed so that it is more non-conforming with respect to a waterbody, tributary stream, or wetland setback requirement. The Applicant must file notice of the activity with the DEP prior to beginning work on the relocation. The notification form must be sent to the DEP by certified mail, (return receipt requested), on a form provided by the DEP, and must include any submissions requested, including the Planning Board's findings of fact supporting its approval.
2. In determining whether the building relocation meets the setback to the Resource by the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation and the greatest benefit to the environment.
3. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:
  - a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. Planted saplings may be no less than 3 feet tall for coniferous species and no less than 6 feet tall for deciduous species. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or



wetland than the trees that were removed.

- b. Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed, or removed.
- c. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

#### D. RECONSTRUCTION OR REPLACEMENT

Any legal non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is damaged or destroyed, regardless of the cause, and which damage or destruction reduces the market value of the structure by more than 50% may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage or destruction, and provided that such reconstruction or replacement is in compliance with the waterbody, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

1. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 3 (A)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location.
2. If the total amount of floor area of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure.
3. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 3C3 (b) and 3C3(c) above.
4. Any legal non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.
5. In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 3C(2) above, the physical condition and type of foundation present, if any.

#### E. CHANGE OF USE OF A LEGAL NON-CONFORMING STRUCTURE

The use of a legal non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

1. In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and functionally water-dependent uses.
2. Professional consultation may be required by the Planning Board.

## **SECTION 4. NON-CONFORMING USES**

### **A. EXPANSIONS**

Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Sections 3(A) and (B), above.

### **B. RESUMPTION PROHIBITED**

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure if the structure has been used or maintained for residential purposes during the preceding five (5) year period.

### **C. CHANGE OF USE**

An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 3, above.

## **SECTION 5. NON-CONFORMING LOTS**

### **A. NON-CONFORMING LOTS**

A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

### **B. CONTIGUOUS BUILT LOTS**

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

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

### **C. CONTIGUOUS LOTS – VACANT OR PARTIALLY BUILT**

If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements. This provision shall not apply to two (2) or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on October 2, 1993 and recorded in the Registry of Deeds if:

1. The lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and
2. Each lot contains at least 100 feet of shore frontage, if applicable, and at least 20,000 square feet of lot area, or any lots that do not meet the frontage (if applicable) and lot size requirements (Table of Dimensional Requirements, Article 5, Section 4) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

D. SUBDIVISION LOTS OF RECORD

Lots of record which are situated in subdivisions approved by the Planning Board on or after July 22, 1988 under standards applicable at the time of approval of those subdivisions shall not be affected by the requirements of paragraphs A, B, and C above.

## ARTICLE IV. LAND USE DISTRICTS, USE TABLE, AND DIMENSIONAL STANDARDS

### SECTION 1. DISTRICT BOUNDARIES

- A. The following rules shall be used to interpret the district boundary lines as shown on the official Town of Fayette Land Use District Map.
1. Boundaries indicated as approximately following the center lines of streets, highways, or roads shall be construed to follow such center lines.
  2. Boundaries indicated as approximately following well established lot lines shall be construed as following such lot lines.
  3. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits.
  4. Boundaries indicated as following shorelines shall be construed to follow the normal high-water line, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the center lines of streams, rivers, lakes, or other bodies of water shall be construed to follow such center lines.
  5. Boundaries indicated as being parallel to or extensions of features indicated in subsections 1 and 2 above shall be so construed. Distances not specifically indicated on the official Land Use District Map and description of documents and bounds in the deed shall be resolved in favor of the description of metes and bounds.
  6. Where physical or cultural features existing on the ground are at variance with those on the official Land Use District Map, or in circumstances where the items covered by subsection 1 through 5 above are not clear, the authorized permitting official or board shall interpret the district boundaries. If an aggrieved party disagrees with this interpretation, they may file an appeal with the Board of Appeals.

### SECTION 2. LAND USE DISTRICTS

The Town is hereby divided into the following six districts: a Rural District, a Village District and four Shoreland Zone Districts as described below and depicted on the Town of Fayette Land Use District Map. In addition, an Age-Friendly District may be designated and approved in the future for appropriate developments meeting specific criteria.

- A. Rural District The Rural District covers most land within the Town of Fayette. It provides for agriculture, forestry, low density residential and recreational development, and some commercial activities, consistent with the rural open space qualities predominant in the Town. The Rural District only includes land outside the Shoreland Zone.
- B. Village District The Village District covers the eastern gateway area along Route 17 and adjoining roads from the Readfield town line to the southern boundary of Echo Lake. This densely settled area was historically known as Fayette Mills and includes the Fayette Central School, Underwood Library and Fayette General Store. Route 17 curves around water bodies and the speed limit is lower to support relatively high traffic turning movements, pedestrian travel, and short-term roadside parking. The Village District provides for higher density residential development and commercial activities and only includes land outside the Shoreland Zone.
- C. Shoreland Zone Districts One of the four Shoreland Zone Districts covers each of the following land areas: within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river, or the upland edge of a freshwater wetland, and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.
1. Resource Protection District The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the Shoreland Zone, exclusive of the Stream Protection District.
    - a. Areas within two hundred and fifty (250) feet, horizontal distance, of the upland edge of

freshwater wetlands and wetlands associated with great ponds and rivers, which are:

- (1) rated “significant” value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by the MDIF&W.
  - (2) rated "significant " value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife that are depicted on a Geographic Information System (GIS) data layer maintained by the MDIF&W, or
  - (3) habitat for species appearing on the official State or Federal lists of endangered or threatened species.
- b. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils
  - c. Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater
  - d. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water
  - e. Land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement
2. Stream Protection District The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the Shoreland District associated with that water body or wetland.
  3. Wetland Protection District The Wetland Protection District includes areas within two hundred and fifty (250) feet of the upland edge of freshwater wetlands that are neither associated with great ponds or rivers nor meeting the criteria for the Resource Protection District. It provides for low-density residential and recreational development while protecting water quality, natural habitat and scenic values.
  4. Lakefront District The Lakefront District includes areas within two hundred and fifty (250) feet of great ponds, rivers and freshwater wetlands not included within the Wetland Protection District or Resource Protection District. It provides for limited seasonal and year-round residential and recreational development, consistent with preservation of water quality. Low impact commercial activity adjacent to the Village District may be appropriate. Given the longstanding popularity of lakeside development, this district includes a large number of densely settled non-conforming lots created prior to the Shoreland Zoning Act.
- D. Age-Friendly District The Age-Friendly District is a floating district that will offer higher density residential community living arrangements to qualifying development proposals designed to meet the needs of older adults in an appropriate location. The District may include a mix of small commercial, institutional, and residential land uses deemed appropriate to the District’s purpose. An applicant requesting such a District designation must submit a Development Proposal to the Planning Board. If approved, the Board would forward a recommendation with the proposed District boundaries, together with conditions including densities, allowed uses, performance bonds and other requirements to the Select Board, requesting that the District be placed on a warrant or ballot for townwide vote. The District boundaries may include one or more parcels, not necessarily limited to the applicant’s proposal. If approved, this Ordinance and the Land Use District Map will be amended to include the Age-Friendly District. Future land uses within an Age-Friendly District may be limited to those directly supporting its central purpose.

### **SECTION 3. LAND USE TABLE**

#### **A. INTRODUCTION**

The Land Use Table and following footnotes serve as a reference for whether and from which permitting authority an allowed use may be authorized in each land use district. The type of permit required is noted in Article II, Section E, with details noted in applicable Articles according to the nature and scale of the activity.

#### **B. APPLICABLE STANDARDS**

Whether or not a permit or notification is required, all land use activities, as indicated in the Land Use Table below, shall conform to the applicable land use standards contained in this Ordinance. After reviewing the Land Use Table, the applicant is advised to read the text of the specific provision(s) that apply, as well as standards in other sections of this Ordinance.

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NOTE: The Code Enforcement Officer will advise applicants as to which standards within this Ordinance apply to their proposal.

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#### **C. ABBREVIATIONS FOUND IN LAND USE TABLE**

##### **1. Districts**

- RP = Resource Protection
- SP = Stream Protection
- WP = Wetland Protection
- LD = Lakefront District
- RD = Rural District
- VD = Village District

##### **2. Authorizations**

- Yes = Allowed (no permit required but the use must comply with all applicable land use standards)
- No = Prohibited
- PB = Allowed with permit issued by the Planning Board
- CEO = Allowed with permit issued by the Code Enforcement Officer.
- SB = Allowed with permit issued by the Select Board
- LPI = Licensed Plumbing Inspector - permit may be required
- N/A = Not applicable

D. LAND USE TABLE

Land Use	District					
	RP	SP	WP	LD	VD	RD
Accessory Dwelling Unit	PB <sup>1</sup>	PB <sup>1</sup>	PB	PB	CEO	CEO
Accessory Structures	PB <sup>1</sup>	PB <sup>1</sup>	CEO	CEO	CEO	CEO
Adding or Removing a Bedroom	CEO	CEO	CEO	CEO	CEO	CEO
Agriculture	PB	CEO	CEO	CEO	YES	YES
Cemeteries	NO	NO	NO	NO	PB	PB
Campground	NO <sup>5</sup>	NO	PB	PB	PB	PB
Clearing/Removal of Vegetation (not Timber Harvesting)	PB <sup>2</sup>	CEO	CEO	CEO	YES	YES
Commercial	NO	NO	NO	NO <sup>10</sup>	PB	PB
Commercial Lodging (including multiple simultaneous short-term rentals on one lot)	NO	NO	PB	PB	PB	PB
Communication Towers	PB	PB	PB	PB	PB	PB
Seasonal Conversion	LPI	LPI	LPI	LPI	LPI	LPI
Essential Services	PB <sup>7</sup>	PB <sup>7</sup>	PB <sup>7</sup>	PB <sup>7</sup>	YES <sup>7</sup>	YES <sup>7</sup>
Family Burial Plots	NO	NO	PB	PB	PB	PB
Fill & Earth Moving (greater than 10 yd)	PB	PB	CEO	CEO	YES <sup>3</sup>	YES <sup>3</sup>
Fill & Earth Moving (less than 10 yd)	CEO	CEO	YES	YES	YES	YES
Free-Standing Sign	CEO	CEO	CEO	CEO	CEO	CEO
Government & Institutional	NO	NO	PB	PB	PB	PB
Home Occupation	PB	PB	PB	PB	YES	YES
Individual Campsite	PB	CEO	CEO	CEO	CEO	CEO
Junkyards & Auto Graveyards	NO	NO	NO	NO	NO <sup>4</sup>	SB & PB
Marinas	NO	NO	NO	PB	N/A	N/A
Mineral Extraction	NO	NO	NO	NO	PB	PB
Mineral Exploration	NO	NO	NO	NO	YES <sup>3</sup>	YES <sup>3</sup>
Mobile Home Parks	NO	NO	NO	NO	PB	NO
Single-Family Dwelling Unit	PB <sup>6</sup>	PB	PB	PB	CEO	CEO
Two principal dwelling units on same lot	NO	NO	NO	PB	CEO	CEO
Multi-Unit Residential (3+ on same lot)	NO	NO	NO	PB	PB	PB
Parking Area	NO <sup>5</sup>	PB	PB	PB	YES	YES
Parking Lot for Public and Private Recreational Areas	PB	PB	PB	PB	CEO	CEO
Parking Lot	NO	NO	PB	PB	PB	PB
Private Sewage Disposal Systems for Allowed Uses	LPI	LPI	LPI	LPI	LPI	LPI
Public and Private Recreational Scientific or Nature Interpretation Areas, minimal structural development	PB	PB <sup>1</sup>	PB	PB	CEO	CEO
Driveway	CEO <sup>9</sup>	CEO	CEO	CEO	CEO	CEO
Road	NO <sup>9</sup>	PB	PB	PB	PB	PB
Short-Term Rental (existing unit)	YES <sup>8</sup>	YES <sup>8</sup>	YES <sup>8</sup>	YES <sup>8</sup>	YES <sup>8</sup>	YES <sup>8</sup>
Subdivisions and 3 <sup>rd</sup> dwelling unit on lot	PB	PB	PB	PB	PB	PB
Uses Similar to uses requiring CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
Uses Similar to uses requiring PB Permit	PB	PB	PB	PB	PB	PB

### **Footnoted Exceptions and Provisions**

1. Provided that a variance from the setback requirement, if required, is obtained from the Board of Appeals.
2. In RP not allowed within seventy-five (75) feet horizontal distance of the normal high-water line of great ponds, except to remove safety hazards.
3. If more than one hundred (100) cubic yards of earth moving need CEO approval.
4. Except by special exception. See Article V, Section 19 C.
5. Except when area is zoned for Resource Protection due to floodplain criteria, in which case a permit is required from the Planning Board.
6. Single family residential structures may be allowed by special exception only in accordance with the provisions of Article VII Section 4.A.7 (E); two family residential structures are prohibited.
7. Permit not required for roadside distribution but must file a written “notice of intent to construct” with CEO.
8. Only one unit at a time per lot may be offered for short-term rental without Planning Board approval as Commercial Lodging. Accessory dwelling units may not be offered for short-term rental. Town license may be required.
9. Except as provided in Article VII, Section 4.F.(4).
10. Except when adjacent to the Village District.

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NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S. §480-C, if the activity occurs in, on, over or adjacent to any freshwater, wetland, great pond, river, stream, or brook and operates in such a manner that material or soil may be washed into them:

1. Dredging, bulldozing, removing or displacing soil, sand, vegetation, or other materials
  2. Draining or otherwise dewatering
  3. Filling, including adding sand or other material to a sand dune, or
  4. Any construction or alteration of any permanent structure.
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## SECTION 4. DIMENSIONAL REQUIREMENTS

All buildings and structures shall conform to the dimensional requirements set forth in this Section, which are minimum requirements, unless otherwise noted.

### A. DIMENSIONAL REQUIREMENTS TABLE

Standard	Resource Protection District	Wetland Protection District	Stream Protection District	Lakefront District	Rural District	Village District
Lot Size	1 acre <sup>1</sup>	2 acres	1 acre <sup>1</sup>	1 acre <sup>1</sup>	2 acres	1 acre
Road Frontage <sup>7</sup>	150 ft	200 ft	150 ft	150 ft	200 ft	150 ft
Road Setback <sup>8</sup>	50ft	50ft	50ft	50ft	50ft	50ft
Side Setback <sup>8</sup>	15 ft	15 ft	15 ft	15 ft	25 ft	15 ft
Rear Setback <sup>8</sup>	15 ft	15 ft	15 ft	15 ft	25 ft	15 ft
Maximum Structure Height <sup>3</sup>	See B.7	See B.7	See B.7	See B.7	35 ft	35 ft
Minimum Land Area per Dwelling Unit <sup>6</sup>	N/A	1 acre	N/A	1 acre	1 acre	1/2 acre
Shore Frontage <sup>2</sup>	200 ft	200 ft	200 ft	200 ft	N/A	N/A
Shore Setback <sup>4</sup>	250 ft	100 ft	75 ft	100 ft	N/A	N/A
Maximum Lot Depth:Width Ratio	5:1	5:1	5:1	5:1	5:1	5:1
Maximum Impervious Area <sup>5</sup>	20%	20%	20%	20%	35%	40%

### Footnoted Exceptions and Provisions

1. The minimum lot size for any Commercial, Institutional, or Government structure located in a Lakefront, Stream Protection, or Resource Protection District shall be sixty thousand (60,000) square feet.
2. The minimum shore frontage of any Commercial, Institutional or Government structure located in a Lakefront, Stream Protection, Wetland Protection or Resource Protection District shall be three hundred (300) feet.
3. Structure Height
  - a. Height requirements do not apply to chimneys, towers, and agricultural structures.
  - b. In Rural & Village Districts, building height in excess of thirty-five (35) feet requires Planning Board approval which may be granted if the proposed height will be visually compatible in the neighborhood, does not contain occupied space presenting a fire risk, and no other public health or safety hazard is identified.
  - c. In all districts, building height is measured from the downhill side of the building to the roof peak.
4. All water body setbacks are measured from the normal high waterline and for wetlands from the upland edge.
5. Impervious areas include all buildings, structures, and all non-vegetated areas, and in general should be minimized to prevent erosion and sedimentation. The maximum applies except as otherwise required by the *State Stormwater Law*. In addition, all properties are required to manage all their projected stormwater on-site or via a recorded easement on an adjacent property as a condition of receiving a permit. Given pre-existing physical constraints and public necessity, Town-owned facilities are exempted from the maximum impervious surface area limitation.
6. Only two (2) dwelling units, or one (1) dwelling unit and one (1) accessory dwelling unit, may be allowed on a single lot without Planning Board approval. Densities may be increased by the Planning Board if the project qualifies as an Affordable Housing Development (see definition), or

in an approved cluster development including permanently protected land with greater combined public benefit. Other dimensional requirements may also be reduced by the Planning Board under Subdivision or Development Review as outlined in those Articles.

7. See Rear Lot exception below.
8. Driveways and parking areas must be set back ten (10) feet from side and rear property boundaries, unless a waiver has been approved and recorded as outlined in Article VI, Section 6.D.2.

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NOTES:

1. A variance from Dimensional Requirements may be granted by the Board of Appeals if the applicant meets the requirements outlined in Article II, Section 4.
  2. Subdivisions may be allowed relaxed dimensional requirements as provided in Article X, Sections 4.G and 8.B.
  3. Wells and septic systems are required by State rule to be set back ten (10) feet from property boundaries.
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**B. ADDITIONAL DIMENSIONAL REQUIREMENTS IN SHORELAND ZONE DISTRICTS**

1. Land below the normal high-water line of a water body or below the upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating the minimum lot area.
2. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
3. For lots in the Resource Protection, Stream Protection, Wetland Protection and Lakefront Districts, the minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
4. If more than one residential dwelling or more than one principal commercial or industrial structure or use is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling or principal structure or use.
5. The shore setback requirements shall apply neither to structures which require direct access to the water as an operational necessity such as piers, docks and retaining walls, nor to other functionally water dependent uses.
6. An accessory dwelling unit may exist on the same lot as a principal dwelling unit in the Shoreland Zone as long as all dimensional requirements and other standards are met. It may not increase non-conformity.
7. Height Limitation Details in Shoreland Zone
  - a. The maximum height of any portion of a structure located from twenty-five (25) to seventy-five (75) feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is twenty (20) feet or the height of the existing structure, whichever is greater.
  - b. The maximum height of any portion of a structure located from seventy-five (75) to one hundred (100) feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is twenty-five (25) feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of Article III, Section 3.A.1.

- c. The maximum height of any portion of a structure that is from one hundred (100) to two hundred and fifty (250) feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is thirty-five (35) feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than one hundred (100) feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of Article III, Section 3.A.1.
8. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the *Natural Resources Protection Act, 38 M.R.S. §480-C*); and that the applicant demonstrates that no reasonable alternative access exists on the property.

#### C. OTHER DIMENSIONAL STANDARDS (ALL DISTRICTS)

##### 1. Road Setbacks

- a. Point of Measurement The road setback is normally measured from the center of the traveled way. In the case of a recorded subdivision plan, staked boundaries may be used instead to indicate the right-of-way boundary, measuring the balance of the setback distance from that point.
- b. Waivers A waiver may be requested of the permitting authority for up to two hundred (200) square feet of incursion for a non-residential accessory structure into the road setback area (but not within the road right-of-way) when no practical alternative exists on the property for a structure deemed to be appropriate and necessary to typical residential and small commercial uses. The incursion into the road setback area will be minimized. Bus shelters, trash bin containers, mail, or package delivery boxes and small farmstands will not be required to demonstrate that no practical alternative exists, but the CEO must find that no public hazard will be presented by their placement. Shipping containers and dumpsters may not be placed within the road setback area.

##### 2. Rear Lots Notwithstanding the Road Frontage requirements of this Ordinance, in the Rural and Village Districts, rear lots may be built upon provided that all state and federal requirements, and the following provisions, are met:

- a. The area of the rear lot shall be at least the minimum required in the District in which it is located.
- b. The total road frontage of the front lot, less the width of the rear lot access, shall continue to equal or exceed the minimum road frontage required in the District.
- c. No more than one (1) access for rear lot development may be created out of any single lot fronting on a public or private road unless each subsequent access is created out of additional road frontage as required for that District, measured from the center lines of the accesses.
- d. No structure shall be located within the limits of an accessway.
- e. A sketch of the access shall be included in the building permit.
- f. The rear lot shall not be required to have frontage on the access.
- g. The provisions of this paragraph shall not create a lot which is exempt from any Subdivision review and approval which may otherwise be required.
- h. Any rear lot, together with any right-of-way or access serving it, created before the adoption of this paragraph, shall be considered a Legal Non-Conforming Lot, and may be used in accordance with all other applicable provisions of law and ordinance.
- i. The access to a rear lot shall be at least thirty (30) feet in width.

3. Multiple Principal Structures on a Lot With the exception of residential dwelling units meeting the criteria of subsection 4 below, multiple principal structures on a lot, regardless of use, may only be granted a Land Use Permit if the lot meets the total combined dimensional requirements for each structure. For example, a residential and commercial structure in the Rural District requires 4 acres and 400 feet of road frontage.

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NOTE: Buildings that are not located on separate lots meeting the dimensional requirements cannot be separated for future sale unless approved by the Planning Board as a condominium or other appropriate ownership structure that separates building ownership from land. A legally sited mobile home or commercial unit may be sold and removed from the site. Applicants are advised to consider long range plans as they make property investments.

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4. Dwelling Unit Density Requirements In the Rural and Village Districts, up to two ( 2) principal dwelling units, or one (1) principal and one (1) accessory dwelling unit, may be allowed on a single lot meeting minimum dimensional requirements without Planning Board Review as a Multi-family dwelling or Subdivision. The units may be attached or detached. After two (2) units are established on the minimum lot area, the minimum lot area per dwelling unit applies for additional units on the same parcel of land. All other dimensional standards including road frontage must be met. For example, 3 units on a single parcel in the Rural District requires 3 acres of land and 400 feet of road frontage.
5. Affordable Housing Development Density Bonus In the Village District, up to four (4) dwelling units may be allowed on a minimum sized lot and density reduced to as much as four and a half (4.5) units/acre on any sized lot if the following requirements are met following Subdivision Review by the Planning Board:
  - a. The proposal is an Affordable Housing Development as defined in this Ordinance, which includes the requirement that a majority of the total units on the lot are affordable
  - b. Complies with minimum lot size requirements in accordance with *12 M.R.S. Chapter 423-A*
  - c. The owner provides written verification that each unit of the housing development is proposed to be connected to adequate water and wastewater services prior to certification of the development for occupancy or similar type of approval process.

Written verification must include the following:

- (1) Proof of adequate sewage disposal for subsurface wastewater. The septic system must be verified as adequate by a local plumbing inspector pursuant to *30-A M.R.S. §4221*. Plans for subsurface wastewater disposal must be prepared by a licensed site evaluator in accordance with *10-144 C.M.R. Ch. 241, Subsurface Wastewater Disposal Rules*.
  - (2) If a housing unit is connected to a well, proof of access to potable water, including the standards outlined in *01-672 C.M.R. Ch.10, §10.25(J), Land Use Districts and Standards*. Any test of an existing well or proposed well must indicate that the water supply is potable and acceptable for domestic use.
- d. Prior to granting final approval of an Affordable Housing Development, including but not limited to issuing an occupancy permit, the Planning Board will require that the owner of the Affordable Housing Development:
    - (1) Execute a restrictive covenant that is enforceable by a party acceptable to the municipality
    - (2) Record the restrictive covenant in the appropriate Registry of Deeds to ensure that for at least thirty (30) years after completion of construction:
      - (a) For rental housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy

- (b) For owned housing, occupancy of all the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

## **ARTICLE V. LAND USE STANDARDS**

### **SECTION 1. APPLICABILITY**

All land use activities shall conform to the following provisions if applicable.

### **SECTION 2. WELLS, INTERNAL PLUMBING AND SUBSURFACE WASTEWATER DISPOSAL**

- A. A land use permit shall be issued for any structure or use involving construction or alteration of plumbing facilities or subsurface wastewater disposal unless a valid permit has been secured by the applicant in accordance with the Subsurface Wastewater Disposal Rules and the Internal Plumbing Rules.
- B. At least fourteen (14) days prior to the installation of a new or replacement dug or drilled drinking water well (or as soon as possible if an emergency), the property owner or their designated agent must notify the Code Enforcement Officer of the planned installation. The Code Enforcement Officer will issue a courtesy notice, either by public posting on the site or by individual contact to abutters, so that abutters may contact the property owner or agent to discuss the location of existing wells and septic systems, or other concerns, prior to installation. The property owner or their agent shall notify the Code Enforcement Officer when the installation is complete and provide a copy of the report submitted to the Maine Geological Survey as required by the *Well Water Information Law (12 M.R.S. §550-B)* within thirty-five (35) days.

### **SECTION 3. CAMPGROUNDS**

- A. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures.
- B. Campgrounds shall contain the following amount of land for each campsite, not including roads and driveways:
  - 1. For areas within the Resource Protection, Wetland, Stream and Shoreland Districts the minimum land area per camp site shall be five thousand (5,000) square feet
  - 2. For areas within the Rural and Village Districts the minimum land area per campsite shall be two thousand five hundred (2,500) square feet
  - 3. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site

### **SECTION 4. INDIVIDUAL PRIVATE CAMPSITES**

Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

- A. One campsite per lot existing on the effective date of this Ordinance, or per the minimum lot size for the district in which it is located, whichever is less, may be permitted.
- B. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Code Enforcement Officer. Where disposal is off-site, written authorization from the receiving facility or landowner is required.
- C. When a recreational vehicle, tent, or similar shelter is placed on-site for more than one hundred twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

### **SECTION 5. PARKING AREAS AND LOTS**

- A. Parking areas and lots shall be adequately sized to handle the traffic generated by the proposed use, designed to prevent storm water runoff from flowing directly into a water body, and, where feasible, to retain all runoff on-site.

- B. No required parking or loading areas shall be located on the road.

## **SECTION 6. SIGNS**

- A. Free-standing signs require a Land Use Permit from the Code Enforcement Officer and must follow the guidelines in this Section. Considerations regarding permissible locations and other conditions will include sight distance, driver distraction, visual compatibility, and interference with road maintenance.
- B. Portable signs, including sandwich boards, may be placed in a Town-maintained right-of-way without a permit as long as they do not create a public safety hazard as described in Section A above. Either the Code Enforcement Officer or Road Commissioner (or their designee) may order removal or physically move a portable sign if deemed necessary for public safety purposes.
- C. Signs and billboards relating to goods and services sold on the premises shall be permitted. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited with the exception of small directional signs, twelve (12) square feet or less, which are permitted.
- D. Signs within the Rural and Village Districts shall be limited to a total of three (3) signs per premises and each sign shall not exceed thirty-two (32) square feet.
- E. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises and do not exceed twelve (12) square feet in area in the aggregate.
- F. Signs relating to trespassing and hunting shall be permitted without restriction as to number, provided that no such sign shall exceed two (2) square feet in area.
- G. Signs relating to public safety shall be permitted without restriction.
- H. No sign shall extend higher than twenty (20) feet above the ground.
- I. Signs may be illuminated only by full-cutoff, non-flashing lights.
- J. Digital message boards are permitted for public entities only and require a permit from the Code Enforcement Officer. They must use a dark background with only the message lighted and must minimize glare. No scrolling, flashing or rapidly changing messages that may distract drivers are allowed.
- K. A single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises may be displayed without a permit
- L. Signs will be located outside of the right-of-way if possible. Any signs permitted within a Town-maintained right-of-way must not present a deadly fixed object and follow the same breakaway post regulations applied to mailboxes on state maintained roads as published by the Maine Department of Transportation. Under no circumstances may a sign be placed that interferes with public safety, including but not limited to driving sight distance or driver distraction.

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### NOTES:

1. Official business directional signs" on all public ways in the Town shall be governed by *23 M.R.S. §1906*. Permits shall be obtained from the Maine Department of Transportation.
  2. No sign may be placed within a State-maintained right-of-way without a permit from the Maine Department of Transportation.
  3. To the extent that any provision of this Ordinance is less strict than *23 M.R.S. Chapter 21, Chapter 21* shall control.
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## **SECTION 7. STORMWATER RUNOFF**

- A. All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural pre-development conditions. Any increase in stormwater flow shall not create soil erosion, flooding, property damage, damage to natural resources or create safety hazards to downstream properties. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater.
- B. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.
- C. For all development that exceeds three thousand (3,000) square feet of building footprint or has more than twenty thousand (20,000) square feet of non-vegetated area, a stormwater control plan shall be developed to limit peak discharge from the site to pre-development levels through a system of swales, culverts, and best management practices equivalent to those described in the current edition of "Stormwater Management for Maine: Best Management Practices" published by the Maine Department of Environmental Protection.

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NOTE: *The Stormwater Management Law (38 M.R.S. §420-D)* requires a full permit to be obtained from the DEP prior to construction of a project consisting of twenty thousand (20,000) square feet or more of impervious area or five (5) acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with one (1) acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one (1) acre or more of disturbed area but less than one (1) acre impervious area (twenty thousand [20,000] square feet for most-at-risk lakes and urban impaired streams) and less than five (5) acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one (1) acre or more of disturbed area.

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## **SECTION 8. ESSENTIAL SERVICES**

- A. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- B. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

## **SECTION 9. MINERAL EXPLORATION AND EXTRACTION**

- A. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface.
  - 1. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation.
  - 2. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.
- B. Mineral extraction may be permitted under the following conditions:
  - 1. A reclamation plan shall be filed with, and approved by, the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of paragraph 2 below.
  - 2. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:



- a. All debris, stumps, and similar material shall be removed for disposal in an approved location or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

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NOTE: The *State of Maine Solid Waste Laws, (38 M.R.S., § 1301 et seq.)* and the *Solid Waste Management Rules, Chapters 400-419 of the Department of Environmental Protection's regulations* may contain other applicable provisions regarding disposal of such materials.

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- b. The final graded slope shall be two to one (2:1) slope or flatter.
  - c. Topsoil or loam shall be retained to cover all disturbed land areas, which shall be re-seeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources, if necessary, to complete the stabilization project.
3. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

### **SECTION 10. AGRICULTURE**

- A. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the *Nutrient Management Act (7 M.R.S. §§4201- 4211)*
- B. Other agricultural activities shall follow Best Management Practices as determined by the Maine Department of Agriculture.

### **SECTION 11. EROSION AND SEDIMENTATION CONTROL**

- A. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions, and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
  1. Mulching and re-vegetation of disturbed soil
  2. Temporary runoff control features such as hay bales, silt fencing, or diversion ditches
  3. Permanent stabilization structures such as retaining walls or riprap
- B. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- C. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- D. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, mulch, and/or other effective measures. In all cases, permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
  1. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established
  2. Anchoring the mulch with netting, peg and twine, or other suitable method may be required to maintain the mulch cover
  3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences

- E. Natural and man-made drainage ways and drainage outlets shall be protected from erosion due to the water flowing through them. Drainage ways shall be designed and constructed in order to carry water from foreseeable storms and shall be stabilized with vegetation or lined with rip-rap.

## **SECTION 12. SOILS**

- A. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including but not limited to severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction.
- B. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals.
  - 1. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists, and other persons who have training and experience in the recognition and evaluation of soil properties
  - 2. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, the presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate
  - 3. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist

## **SECTION 13. WATER QUALITY**

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses of the water classification of the water body.

## **SECTION 14. SPECIAL PROTECTION AREAS**

If any archeological, historic, wildlife habitat scenic area, or rare and natural areas are located in the proposed developed area, a protection plan shall be developed in accordance with the following:

- A. If any portion of the developed area is designated as a significant archeological or historic site by the Maine Historic Preservation Commission, Fayette Comprehensive Plan or listed on the National Register of Historic Places, the applicant shall develop appropriate measures for the protection of these resources according to local, state, and federal regulations.
- B. If any portion of the developed area is located within an area designated as a scenic area or a unique natural area by the Maine Natural Areas Program or the Fayette Comprehensive Plan, the applicant shall develop appropriate measures for the preservation of the values which qualify the site for such designation.
- C. If any portion of the developed area is within a wildlife habitat area, the applicant shall consult with the Maine Department of Inland Fisheries and Wildlife or a qualified biologist and develop measures to protect these areas from environmental damage and habitat loss. Wildlife areas include the following:
  - 1. Habitat for species appearing on the official state or federal list of endangered or threatened species
  - 2. Significant waterfowl and wading bird habitats, including nesting and feeding areas, as defined by the Maine Department of Inland Fisheries and Wildlife
  - 3. Significant deer wintering areas as identified by the Maine Department of Inland Fisheries and Wildlife
  - 4. Vernal pools
  - 5. Other known wildlife habitat of local significance brought to the attention of the applicant or permitting officials

## **SECTION 15. AQUIFERS**

- A. Any land use proposed within a sand and gravel aquifer, or significant bedrock aquifer as identified by the Maine Geological Survey, shall be designed and constructed so as not to cause any pollution or contamination of the aquifer.
- B. A ground water protection plan developed by a certified hydrologist shall be required for development proposals for industrial use, manufacturing facilities, auto junkyards, auto repair, chemical storage or processing facilities, oil or fuel storage facilities, truck repair, and any structure with oil, fuel or chemical storage that exceeds a total of one thousand (1,000) gallons for the entire site.

## **SECTION 16. HOME OCCUPATION**

- A. Home occupations are business or commercial activities that are conducted in a dwelling by one or more family members residing in the home. The specific occupation must be compatible with the residential character of both the building and the neighborhood. Home occupation use is designed for low impact business activities that can co-exist with residential neighborhoods without causing noise, odors, excessive traffic, or detract from the comfort and expectations of neighboring homeowners.
- B. The use of a dwelling shall be clearly incidental to and compatible with the residential use of the property and surrounding residential uses. The home occupation shall be carried on wholly within the principal building or within a building or other structure accessory to it. The outside storage and processing of materials or products shall be prohibited.
- C. All necessary parking shall be provided off the street. The traffic generated by the home occupation shall not create greater traffic than normal for the area in which it is located.

## **SECTION 17. LIGHTING**

All lighting fixtures shall be full cutoff so that lighting illumination is not exposed to normal view by motorists, pedestrians or from adjacent structures. Existing fixtures that do not meet this standard may be retained until they need replacing unless a verified complaint from a person impacted by the light is received. The Code Enforcement Officer will work with impacted parties to identify a course of resolution.

- A. Illumination shall not extend beyond the property line unless the impacted abutter is in agreement.
- B. Glaring illumination that causes traveling distraction, disturbs normal vision, or interferes with visibility of the dark night sky is prohibited.
- C. No lighting fixture, except streetlights, shall extend beyond a height of twenty-five (25) feet as measured from the roadway.

## **SECTION 18. LIFE SAFETY OCCUPANCY STANDARDS**

No newly constructed residential structure may be occupied without a Certificate of Occupancy obtained from the Code Enforcement Officer confirming that the structure meets NFPA 101 Life Safety Standards. Residential structures that have been rendered non-habitable as a result of partial destruction by natural or other causes, and partially re-constructed, may require Code Enforcement Officer review and permit.

## **SECTION 19. MOBILE HOMES AND MOBILE HOME PARKS**

- A. The installation of all mobile homes must follow the State of Maine Manufactured Home Installation Standard, Chapter 900. A copy shall be kept on file at the Town Office.
- B. All mobile home parks are subject to the Subdivision Review Standards within Article X and must meet the requirements of *30-A M.R.S. §4358* as may be amended.
- C. Mobile home parks are only allowed within the Village District.

## **SECTION 20. AUTOMOBILE GRAVEYARDS. AUTOMOBILE RECYCLING BUSINESSES AND JUNKYARDS**

- A. All automobile graveyards, automobile recycling business and junkyards must be licensed in accordance with *30-A M.R.S. §§3751-3760*.
- B. Any new automobile graveyard, automobile recycling business and junkyard must obtain a permit from the Select Board. A permit from the Select Board will be issued in accordance with *30-A M.R.S. §§ 3751-3760* and the applicable requirements of this Ordinance.
- C. Proposals for new automobile graveyards, recycling businesses and junkyards may be considered for location in the Rural District only. There is no grandfathering clause, so-called, permitting uses in existence before the enactment of this Ordinance. However, existing uses as of June 13, 2024 in either the Rural or Village Districts may apply for a Land Use Permit to become legally permitted or to expand.
- D. Design Standards: All applications reviewed by the Select Board after June 14, 2008 shall meet the following requirements
  - 1. The area used for the facility shall be set back a minimum of seventy-five (75) feet from all property lines
  - 2. A buffer consisting of vegetation, fences, or berms, or any combination thereof shall be installed along all property lines and shall be capable of providing a year-round screen to a height of eight (8) feet. The landscaping and buffer requirements contained in Article IX, § E.5 shall also be followed.

## **SECTION 21. STEEP SLOPE PROTECTION**

In order to prevent erosion, protect water quality, and balance the needs and rights of landowners to develop property with maintaining the town's rural character and natural viewsheds, the following standards apply to clearing on sustained slopes (2 acres+ in extent) with grades of 20% or greater within the town. Clearing for agricultural use and as a result of timber harvesting with no associated land use activity are exempt. The Code Enforcement Officer will identify areas subject to this provision upon request.

### **A. Building Placement and Design Standards**

- 1. Any proposed development or related activities within the steep slope district must be designed to ensure buildings, structures, and other improvements will not otherwise alter the ridge profile significantly when viewed from existing roadways, major water bodies, permanent trails, or public property. Essential services, including permitted communication towers, will be designed to minimize their interruption of the ridge profile.
- 2. The design of proposed development or related activities shall take into account the scenic character of the surrounding area. Structures shall be located, designed and landscaped to reasonably minimize their visual impact on the surrounding area, particularly when viewed from existing roadways, major water bodies, permanent trails, or public property.

### **B. Vegetative Clearing Standards**

- 1. The proposal must include a vegetation management plan that establishes and provides for long-term maintenance of cleared areas that will both prevent erosion and minimize potential impacts to views from existing roadways, major water bodies, permanent trails, and public property. The vegetation management plan must ensure that:

- a. There will be a sufficient area of clearing allowed around buildings to maintain the minimum extent needed for defensible space for fire safety, generally thirty (30) feet in width
  - b. There will be sufficient vegetation maintained on steep slopes to protect long-term slope stability
  - c. Existing forest cover will be maintained to interrupt the view of the façade of buildings, provide a forested backdrop to buildings, and reduce or eliminate the visual impact of new development
  - d. Clearing for views will be limited, with narrow view openings between trees and beneath tree canopies being a desirable alternative to clearing large openings adjacent to building facades
2. The Town of Fayette may require up to a 5 (five) year maintenance plan to ensure vegetation standards/retention/vegetation viability of this ordinance are met.

## **SECTION 22. ACCESSORY DWELLING UNITS**

- A. An accessory dwelling unit may be added to any single-family home on a minimum sized lot provided:
1. there are not already multiple dwellings on the lot
  2. that the LPI certifies that the wastewater system is adequate
  3. that sufficient water supply, including potable water, will be supplied to the unit, and
  4. that the addition does not add to any pre-existing non-conformance.
- B. Accessory dwelling units may be located within, attached to, or detached from the principal dwelling unit and must have a separate entrance. The Code Enforcement Officer will determine whether a unit qualifies as either a second principal or accessory dwelling unit, taking owner preferences into consideration. The owner may request a change in classification at any time.

## **SECTION 23. SHORT-TERM RENTALS**

One dwelling unit on a lot may be short-term rented without a permit. More than one simultaneous short-term rental use on a lot is considered Commercial Lodging and requires a Land Use Permit approved by the Planning Board. Accessory dwelling units are intended to provide long-term housing and may not be offered for short-term rental.

## **SECTION 24. PUBLIC ROAD DAMAGE**

- A. Any drainage or sedimentation that originates from a parcel of private land that either presents a public hazard, or, causes damage to the public road system, shall be considered a violation of this Ordinance.
- B. Either the Road Commissioner or the Select Board may identify a violation under this Section and must provide a written notice of violation and order to remediate the damaging condition, including the standard of repair required. Depending upon its severity, the landowner will be given two to ten (2-10) days to correct the situation or present a plan for corrective action with a timeline. Failure to do so constitutes a violation of this Ordinance, and each day such violation continues will be considered a separate violation. The Road Commissioner may accept or reject the corrective action plan, depending on the severity of the circumstances and show of good faith by the landowner. Following notification, if action is not taken by the landowner in the named timeframe, the Road Commissioner is authorized to take corrective action within the public right-of-way (e.g. rerouting drainage and/or regrading) and present a bill for the work to the landowner. Any bill that remains unpaid on the date the Town's property taxes are due will be considered delinquent. In the event the bill remains unpaid, the Town may petition a court for authorization to file a lien against the property for the unpaid amount, plus costs and legal fees.

## **ARTICLE VI. DRIVEWAYS AND ROADS**

### **SECTION 1. PURPOSE**

The purpose of these standards is to build safe, reliable, resilient, and efficient infrastructure that will protect the public health and safety as well as the natural environment in the most cost-effective manner. The intent is to design and build right-sized driveways, roads, and drainage facilities to support foreseeable future traffic loads, withstand intensive storm events and minimize environmental disturbance, as well as prevent traffic conflicts. This Article provides a review process and standards for all accessways intersecting with town-maintained roads. It specifies the procedure and requirements for offering roads for town acceptance.

### **SECTION 2. APPLICABILITY**

- A. New accessways of any kind intersecting town-maintained roads or rights-of-way must receive the appropriate permit as described below before being constructed. These include accessways designed for pedestrians, bicycles, ATV's, snowmobiles, tractors, skidders, and all motor vehicles.
- B. New subdivision roads, including those intersecting private roads, must meet the appropriate standards in this Article as well as additional provisions that may be applicable to the subdivision.
- C. Existing accessways connecting with town-maintained roads that are to be paved, widened, altered in grade or drainage, or are anticipated to accommodate a change in volume or type of traffic.
- D. All accessways to State-maintained roads (Route 17 and the Chesterville Ridge Road at the time this ordinance was written) must receive the appropriate permit from the Maine Department of Transportation (MaineDOT). Accessways needing a town Access Permit or Driveway Permit on town roads are exempt if a permit has been granted by MaineDOT, however the Planning Board may add requirements for land uses subject to Development or Subdivision Review.
- E. Owners of land accessed via a non-maintained Public Easement are not subject to an Access or Driveway Permit but may not block the Public Easement. Any activity on such property requiring a Land Use Permit will include keeping the Public Easement open as a condition of approval.
- F. Once an accessway is built, the permit-holder is responsible for maintenance, including the cost of repair or replacement of drainage culverts. Any drainage or sedimentation that originates from a parcel of private land that either (a) presents a public hazard, or (b) causes damage to the public road system, will be considered a violation of this Ordinance.

### **SECTION 3. ADMINISTRATION**

#### **A. ACCESS PERMIT**

An Access Permit issued by the Road Commissioner (RC) or designee will be required of any new or expanded trail (inclusive of hiking, mountain bike, all-terrain vehicle and snowmobile trails), logging accessway, or farm field accessway intersecting a town-maintained road or right-of-way.

#### **B. DRIVEWAY PERMIT**

A Driveway Permit issued by the Code Enforcement Officer (CEO) will be required of any new or expanded accessway designed for motor vehicles serving up to 2 lots and/or 4 dwelling units that will intersect with a town-maintained road. The CEO will consult with the Road Commissioner as needed. The Driveway Permit application and review process may be combined with a Land Use, Development Review or Subdivision application.

### C. ROAD PERMIT

A Road Permit issued by the Planning Board will be required of any accessway designed for motor vehicles serving more than the limits of driveways intersecting town-maintained roads. If part of a Development or Subdivision Review, the Road Permit will be incorporated into the Planning Board review process. The Road Commissioner or designee will be consulted as needed.

### D. PAVING, WIDENING OR ALTERING GRADE OR DRAINAGE

A permit must be obtained from the same permitting official that issued the original permit if an existing accessway is to be paved, widened, or altered in grade or drainage.

### G. ROAD CATEGORIES

Roads will be classified according to service level, ownership and maintenance categories as follows:

#### 1. Service Level Category

- (a) Collector – road providing through traffic or serving over 20 lots
- (b) Local – road providing neighborhood circulation or access to 5-20 lots or over 9 dwelling units
- (c) Lane – road providing access to a local or collector road for 3-4 lots or up to 9 dwelling units

#### 2. Ownership and Maintenance Category

- (a) Public
  - (1) State maintained
  - (2) Town maintained
- (b) Private
  - (1) Privately maintained (no public access rights)
  - (2) Public Easement, not maintained

## **SECTION 4. SUBMITTAL REQUIREMENTS**

### A. ACCESS PERMIT

- 1. Name and contact information of applicant and property owner, if different
- 2. Proof of right, title, or interest in constructing accessway
- 3. Purpose and level of use of access, if temporary or permanent, and whether public or private
- 4. Identity of proposed contractor and desired construction time
- 5. Proposed location of accessway drawn on an aerial photo with property boundaries shown (available at town office)
- 6. Land Use District
- 7. Proposed design and construction materials to be used, at a level of detail sufficient to satisfy approval criteria in Section 5

### B. DRIVEWAY PERMIT

- 1. Name and contact information of applicant and property owner, if different
- 2. Proof of right, title, or interest in constructing driveway
- 3. Purpose and level of use of driveway, if temporary or permanent, and whether public or private
- 4. Identity of proposed contractor and desired construction time
- 5. Proposed location of driveway drawn on an aerial photo with property boundaries shown (available at town office)

6. Land Use District
7. Proposed design and construction materials to be used
8. Any requested waivers from the access, design and construction standards outlined in Sections 6 and 8, noting reason why and how proposed alternative will satisfy the intent of this Ordinance
9. A signed affidavit that the applicant understands the requirements within Section 6 and intends to build the driveway in compliance with these standards, provided any requested waivers are approved.

### C. ROAD PERMIT

At a minimum, the following information shall be provided in the initial application. The applicant may request waivers and/or proposed alternative design or construction standards at an initial meeting with the Planning Board. The Planning Board, with advice from the Road Commissioner and Code Enforcement Officer, will consider waivers, determine the level of pre-construction detail needed, and whether any or all plans must be prepared by a Professional Engineer, registered in the State of Maine. The Board's decision shall be required based on the proposed use, complexity, surrounding environmental conditions, as well as demonstrated capacity of the applicant and proposed contractor.

#### 1. All Roads

- a. Name and contact information of applicant and property owner, if different
- b. Proof of right, title, or interest in constructing road
- c. Any legal encumbrances on the land upon which the proposed road is locate
- d. Purpose including estimated volume and type of traffic, service level category (including number of lots/units to be served), ownership and maintenance category (see Section 3)
- e. Land Use District(s)
- f. Whether part of a Subdivision or Development Application
- g. Identity of proposed contractor and desired construction time
- h. Proposed location of road drawn on an aerial photo with property boundaries shown (available at town office)
- i. Location and type of overhead or underground utilities to be installed
- j. Statement of who will own the road following construction, by what legal instrument, and who will be responsible for road maintenance

#### 2. Lanes

- a. Proposed design and construction materials to be used, at a level sufficient to satisfy the Board that the road will meet all Ordinance requirements; the default submission is that required for Local and Collector Roads
- b. A description of stormwater management and drainageway provisions, together with supporting assumptions and calculations
- c. A description of erosion and sedimentation control measures to be employed during and following construction
- d. Any requested waivers from the access, design and construction standards outlined in Section 6, noting reason why and how proposed alternative will satisfy the intent of this Ordinance
- e. A signed affidavit that the applicant understands the requirements within Section 6 and intends to build the road in compliance with these standards, provided any requested waivers are approved



### 3. Local and Collector Roads

- a. The applicant shall submit detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed road. The plan shall be at a scale of one inch equals no more than 50 feet. The vertical scale shall be one inch equals no more than 5 feet.
- b. Date, scale and north point.
- c. Intersections of the proposed road with existing roads
- d. Roadway and right-of-way limits, including edge of pavement and edge of shoulder
- e. Kind, size, location, material, profile and cross section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways
- f. Complete curve data shall be indicated for all horizontal and vertical curves
- g. Turning radii at all intersections
- h. Centerline gradients
- i. Size, type and locations of all existing and proposed utilities.
- j. Applicant's assessment of adequate sight distance
- k. Any requested waivers from the access, design and construction standards outlined in Section 6, noting reason why and how proposed alternative will satisfy the intent of this Ordinance
- l. A signed affidavit that the applicant understands the requirements within Section 6 and intends to build the road in compliance with these standards, provided any requested waivers are approved
- m. If petitioning to dedicate either a Public Easement or full title of the proposed road to the Town, a Town Road Acceptance Petition (see Section 10)

### 4. Collector Roads

Designs for Collector Roads must be prepared by a Professional Engineer, registered in the State of Maine.

## **SECTION 5. ACCESS PERMIT REVIEW PROCESS AND APPROVAL CRITERIA**

### A. SITE VISIT

Upon receipt of an application, the Road Commissioner or designee will contact the applicant within 14 calendar days to arrange a site visit on the property.

### B. APPROVAL CRITERIA

Depending upon the purpose and level of use of the accessway, the Road Commissioner or designee will issue a permit upon finding:

1. that there is adequate sight distance to allow safe crossings and/or turning movements to and from the proposed accessway
2. that the designated size and type of road culvert, if any, will be properly installed to protect the road or right-of-way drainage system. If a temporary accessway such as for log removal, the Road Commissioner may authorize disturbance of the drainage system with a requirement to repair any damage by a date certain, and
3. that the grade and materials used will provide a sufficiently stable access foundation that is unlikely to erode or cause either physical damage to the road system or a public safety concern.

### C. CONDITIONS

In addition to specifying the requirements related to the above findings, the permitting officer may

include any conditions, including tree or brush removal to achieve desired sight distance, that they deem necessary to meet the approval criteria.

## **SECTION 6. DRIVEWAY PERMIT REVIEW PROCESS AND APPROVAL CRITERIA**

### **A. REVIEW PROCESS**

1. Site Visit Upon receipt of an application, the Code Enforcement Officer will contact the applicant within 14 calendar days to arrange a site visit on the property. If combined with a Land Use application, a single site visit may be arranged. The site visit will typically be conducted by both the Code Enforcement Officer and Road Commissioner or designee. At the time of the site visit, any additional information needed will be determined, including if outside expertise will be required to assist in the permit review.
2. Timing and Nature of Decision Once the Code Enforcement Officer determines that all needed information has been provided, they will make a decision on the permit within 14 calendar days. The permit will be approved with any necessary conditions to assure that the requirements and intent of this Ordinance will be met. If the permit is denied, the reason and means of redress, if any, will be clearly stated.

### **B. APPROVAL CRITERIA**

Depending upon the purpose and level of use of the driveway, the Code Enforcement Officer will issue a permit upon finding that:

1. The road or roads providing access to the proposed driveway have the carrying capacity to safely handle the projected volume and type of traffic to be served by the driveway
2. There is adequate sight distance to allow safe crossings and/or turning movements to and from the proposed driveway
3. The designated size and type of road culvert, if any, will be properly installed to protect the road or right-of-way drainage system and that the driveway will not drain onto the public road
4. The grade, drainage provisions and materials used will provide a sufficiently stable access foundation that is unlikely to erode or cause either physical damage to the road system or a public safety concern, and
5. There is sufficient room for vehicles expected to use the driveway to turn around, preventing the need to back out into the roadway.

### **C. CONDITIONS**

In addition to specifying the requirements related to the above findings, the permitting officer may include any conditions, including being notified to observe or inspect the construction process, that they deem necessary to meet the approval criteria.

### **D. WAIVERS**

1. Design The Code Enforcement Officer may grant modest waivers from specific design requirements upon finding that an equivalent or better outcome will result from the change. Any such waivers will be documented with the reasoning detailed on the permit.
2. Setback Waivers The Code Enforcement may grant a waiver from the 10-foot side or rear property line setback (see Table of Dimensional Requirements) provided the following requirements are met:
  - a. The driveway serves no more than 2 lots
  - b. If a driveway must be located closer to the property line than 10', the permitting authority will review and approve the location based on the following:

- (1) The applicant cannot construct a driveway that would meet the setback requirements from both the resource being protected (i.e. pond, lake, stream, wetland, etc.) and the property line setbacks, and it is more important from the perspective of protecting the resource that the driveway meet the setback from the resource rather than the setback from the property line, and/or
  - (2) The need to locate the driveway near the property line is due to topography and/or the amount of disturbance that would impact the surrounding area and water runoff issues, and/or
  - (3) The location of the driveway is on deeded access in existence prior to the adoption of this Ordinance provision.
- c. If the driveway must be located closer than 5' to a property line, a notarized letter granting perpetual approval of the specific setback waiver from the abutter shall be given to the Code Enforcement Officer for the record and it shall be recorded at the Kennebec Registry of Deeds. Within 30 days of receiving a permit, the applicant will provide proof of recording to the Code Enforcement Officer as a condition of approval. This requirement does not apply to deeded accesses in existence prior to the adoption of this Ordinance provision

## **SECTION 7. ROAD PERMIT REVIEW PROCESS AND APPROVAL CRITERIA**

### **A. CODE ENFORCEMENT OFFICER PROCESS**

Within 14 calendar days of receipt of a Road Application, the Code Enforcement Officer will make an initial finding of whether the application is complete. They will contact the applicant with either a request for more information or notification of the date and time of the Planning Board meeting at which the application will be reviewed. If part of a Development or Subdivision application, the road will be considered as part of the entire application. If time allows, the Code Enforcement Officer may do an informal site visit with or without notifying the applicant to strengthen the initial set of facts initially presented to the Planning Board.

### **B. PLANNING BOARD PROCESS**

The Planning Board will review the application and confirm whether it is complete or more information is required prior to beginning review. The Board may also initiate review and accept the additional information needed at a later point of the process. The applicant will attend the Planning Board meeting to discuss the project. Depending upon the complexity and quality of information provided, the Planning Board may conduct and complete its review at the initial meeting or may schedule a site visit, schedule a public hearing, or request that additional information or expertise be provided to inform its decision.

As part of its review, the Planning Board will review the classification of road selected by the applicant to ensure that the road will be capable of accommodating future foreseeable expansion.

The Planning Board shall consider the following in its review:

1. Particular conditions of the site do not allow for future expansion.
2. A phased build-out of the development is proposed.
3. The applicant owns or has retained adjacent land with future development potential.

The Planning Board may, after reviewing the particular site conditions, require that a road be constructed to a road category that is more suitable to the potential build-out of the site.

### **C. TIMING OF DECISION**

Once all information has been received, unless the Board finds the need to consult with outside expertise, the Board will render a decision within 30 days.

### **D. APPROVAL CRITERIA**

The Board will issue a Road Permit upon finding that the purposes of this Article are satisfied. The

Board must find that either all standards in this Ordinance have been met, or that at least an equivalent outcome will be obtained if waivers have been granted. The Board may apply any conditions it deems necessary to comply with the purpose and intent of this Ordinance. Standard conditions are outlined in Section 9.

**E. INSPECTION REQUIREMENT**

Roads for which an as-built inspection by a Professional Engineer have been required may not be open to traffic until the Road Commissioner and Planning Board have each signed a Certificate of Compliance finding that the road has been built to permitted standards.

**SECTION 8. DRIVEWAY AND ROAD STANDARDS**

**A. ADDITIONAL STANDARDS MAY APPLY**

1. Shoreland Zoning Provisions If a project is located within a Shoreland Zone, the additional requirements of Article VI, Section 8 apply.
2. Development and/or Subdivision Review Driveways and roads associated with Development and/or Subdivision Review are subject to additional requirements of those articles and final permits will not be granted until those reviews are completed.

**B. ACCESS STANDARDS**

1. Driveway and Roads:

- a. Driveways and roads that access a State-maintained Road shall comply with all applicable Maine Department of Transportation (MaineDOT) design requirements.
- b. The minimum corner clearance for driveways is 75 feet. Roads may require greater corner clearance as determined by a traffic engineer.
- c. The access shall be located and designed in profile and grading to provide the required sight distance measured in each direction. Sight distance shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curbline or edge of the shoulder, with the height of the eye 3 ½ feet, to the top of an object 4 ½ feet above the pavement. The minimum allowable sight distances for driveways and roads are set forth in the following table. The Code Enforcement Officer or Planning Board may require up to 50% greater sight distances when at least 30% of the traffic using the driveway will be larger vehicles.

Posted Speed (MPH)	Sight Distance (Feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	495
55	570
60	645

- d. Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
- e. Unless a waiver is granted, driveway width within the right of way must be between 12 and 22 feet inclusive. Width will be limited to that necessary to provide safe and effective access for anticipated vehicles. The width of a driveway is the distance across the driveway, excluding radii, measured parallel to the road.
- f. Turnaround Area and Parking. Driveways will be designed such that all maneuvering and parking of any vehicles will take place outside of the highway right of way and such that vehicles may exit the premises without backing onto the traveled way or shoulder.
- g. The road providing access to the proposed driveway or road, and any other road that can be expected to carry traffic for the proposed development shall have an adequate traffic carrying capacity to accommodate the proposed use. The road shall be improved as necessary to accommodate the traffic requirements of the development. All necessary improvements shall be made at the expense of the developer.

2. Additional Standards for Roads

- a. The curb radii will vary depending on if the access has a one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with the preferred radius of 30 feet. On one-way access, the curb radii shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.
- b. On a two-way access the width shall be between 24 and 26 feet, with a preferred width of 26 feet. On a one-way access the width shall be between 16 feet and 20 feet, with a preferred width of 16 feet.
- c. On a two-way access the curb-cut width shall be between 74 feet and 110 feet, with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet, with a preferred width of 50 feet.
- d. Appropriate traffic control signage shall be erected at the intersection of the access and the street.
- e. The road design will include a second access when any of the following thresholds are met:
  - a. 20 lots served
  - b. 30 dwellings served (assuming up to 2 possible per lot unless deeds prevent ADUs)
  - c. 2000' or greater in length of existing access
  - d. The Fire Chief will be asked for a recommendation if the applicant or Planning Board believes the requirement is unnecessary for reasonable public safety and/or will cause environmental degradation in excess of the public safety benefit. The Planning Board will weigh the relative benefits and risks, and make a determination based upon the individual facts and circumstances.
- f. All roads with access onto an existing paved public road shall be paved with bituminous pavement a minimum distance of 75 feet as measured from the edge of the existing road onto the proposed road.

C. DRIVEWAY AND ROAD DRAINAGE STANDARDS

- 1. Road and driveway banks shall be no steeper than a slope of three (3) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in this Ordinance. If no practical alternative exists, a waiver may be granted for steeper grades, upon approval of the Road Commissioner or designee.
- 2. Grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the

following shall apply:

Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the driveway or road at intervals no greater than indicated in the following table:

<b>Grade (Percent)</b>	<b>Spacing (Feet)</b>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

Drainage dips or water bars may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

4. On driveway or road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down-slope from a line perpendicular to the centerline.
5. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.
6. The storm drainage pipe size shall be determined by the Road Commissioner. The applicant shall purchase storm drainage pipe at specified length and width after obtaining a permit and have it delivered to the site. The Fayette Highway Department will install the culvert and entrance from the road to the edge of town right-of-way, providing gravel and other materials as necessary for that portion of the installation. The Town will maintain the entrance once installed, including culvert-cleaning and costs for purchasing and replacing culverts if needed.
7. In order to prevent driveway surface drainage from directly entering water bodies, tributary streams or wetlands, driveways and roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
8. Where bridge structures or reinforced concrete box culverts are required to cross major streams, detailed design plans provided by a certified Professional Engineer, registered in the State of Maine, shall be submitted with the application. All bridges and reinforced concrete box culverts shall be designed to accommodate projected future storm and flood levels.

#### D. DRIVEWAY CONSTRUCTION STANDARDS

In the interest of supporting affordability and owner preference, there are no specific construction standards for driveways. However, the proposed materials and installation methods will be reviewed by the permitting authority for adequacy to meet the approval criteria. Professional expertise may be sought to advise the permitting authority.

Applicants may be required to upgrade what is initially proposed to meet the standards of this Article, as well additional ones within Development, Subdivision or Shoreland Zoning Articles of this Ordinance.

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NOTE: While not required, applicants are encouraged to consider safe and reliable accessibility for emergency vehicles such as fire trucks and ambulances in driveway design and construction.

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E. ROAD CONSTRUCTION STANDARDS

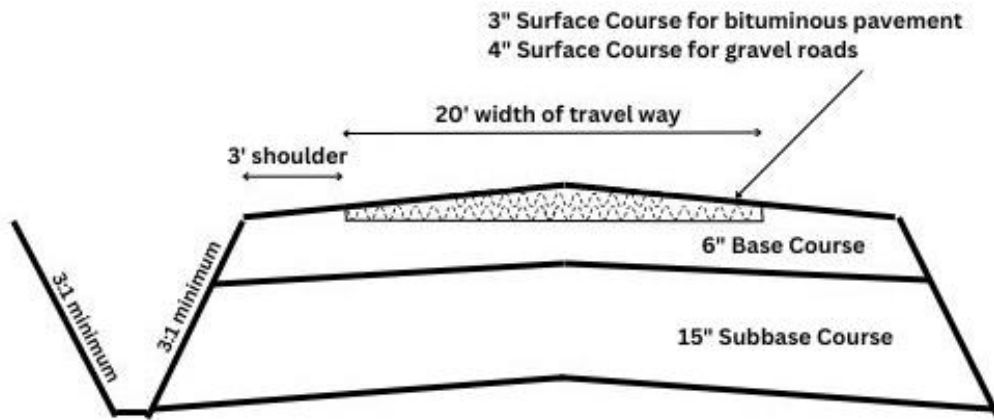
Unless a waiver is granted, roads shall be built to the following standards (see *Typical Local Road Cross Section Diagram* below for illustration):

DESIGN STANDARD	COLLECTOR ROAD	LOCAL ROAD	LANE
Right of Way Width	60 ft	50 ft	50 ft
Travel Way Width	22 ft	20 ft	18 ft
Shoulder Width	4 ft	3 ft	2 ft
Minimum Grade (centerline)	.5%	.5%	.5%
Maximum Grade (centerline)	5%	5%	5%
Minimum Centerline radius w/o superelevation	280 ft	280 ft	175 ft
Roadway Crown	2% <sup>1</sup>	2% <sup>1</sup>	2% <sup>1</sup>
Minimum Angle of Road Intersection	90 degrees	60 degrees	60 degrees
Maximum Centerline Grade w/in 75ft of intersection	3%	3%	3%
Culverts	Determined by the Road Commissioner	Determined by the Road Commissioner	Determined by the Road Commissioner
Minimum Fill Slope	3:1	3:1	3:1
Shoulder Grade	¼ inch per foot	¼ inch per foot	¼ inch per foot

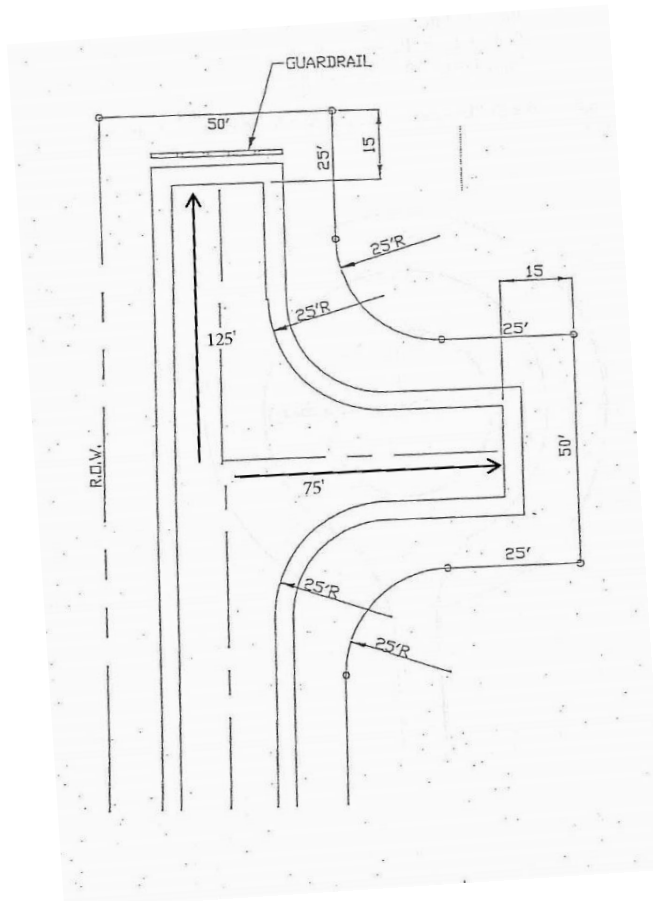
NOTES:

1. For a paved road, roadway crown may be between 2-4%, depending on drainage needs and landscape characteristics. For a gravel road, roadway crown may be between 4-6%, depending on drainage needs and landscape characteristics.
2. Dead-end roads must have a cul-de-sac or L-shaped turn around meeting the standards shown below. To be accepted as a town road, turnaround must be an “L-Shaped turn around” (see diagram below).

## Typical Local Road Cross-Section



## Typical L-Shaped Turnaround Detail





CONSTRUCTION MATERIALS MINIMUM REQUIREMENTS		COLLECTOR ROAD	LOCAL ROAD	LANE
Aggregate Base	Total Inches	24 inches	21 inches	18 inches
	Subbase Course	18 inches	15 inches	12 inches
	Base Course	6 inches	6 inches	6 inches
Surface Course for Gravel Roads		4 inches	4 inches	4 inches
Surface Course for a Bituminous Pavement Surface	Total Inches	3 inches	3 inches	3 inches
	Base Course	1¾ inches	1¾ inches	1¾ inches
	Surface Course	1¾ inches	1¾ Inches	1¾ inches

### **Gravel Subbase Materials Specifications**

The gravel subbase courses shall be gravel of durable particles free from vegetative matter, lumps, or balls of clay or other deleterious matter. The gradation of the part that passes a 3 inch square sieve shall meet the grading requirements below. The maximum stone size shall be 6 inches.

SIEVE DESIGNATION	PERCENTAGE BY WEIGHT PASSING SQUARE SIEVE
¼ INCH	25-70%
No. 40	0-30%
No. 200	0-5%

### **Gravel Base Course Specifications**

The base course shall be crushed gravel of hard durable particles free from vegetative matter, lumps, and balls of clay. The gradation of the part that passes a 3 inch square sieve shall meet the grading requirements below. The maximum stone size shall be 4 inches.

SIEVE DESIGNATION	PERCENTAGE BY WEIGHT PASSING SQUARE SIEVE
½ INCH	45-70%
¼ INCH	30-55%
No. 40	0-20%
No. 200	0-5%

### **Surface Gravel Specifications**

Surface gravel for use on gravel roads shall have no stone larger than 2 inches in size and shall meet the grading requirements below.

SIEVE DESIGNATION	PERCENTAGE BY WEIGHT PASSING SQUARE SIEVE
2 INCH	95-100%
½ INCH	30-65%
No. 200	7-12%

### **Bituminous Pavement Specifications**

The minimum standards for the base layer of pavement shall be MaineDOT specifications for plant mix grade "B" with an aggregate size of no more than ¾ inch maximum. The minimum standard for the surface layer of the pavement shall meet MaineDOT specifications for plant mix grade "C" or "D" with an aggregate size of no more than ½ inch maximum.

## SECTION 9. GENERAL PERMIT CONDITIONS

- A. All accessway permits will be contingent upon approval of any other applicable Town, State or Federal permit requirements, including Natural Resource Protection Act permits.
- B. Road permit-holders must provide the Road Commissioner with a construction schedule at least 14 days ahead of the start date. The Road Commissioner or designee will serve as the inspector and may call upon one or more members of the Select Board, Planning Board, or other knowledgeable persons to serve on an inspection team. Road permit-holders will notify the Road Commissioner at least 24 hours prior to each phase of construction so that an inspection may be made both during and after construction to confirm adherence to permit requirements. Each layer of road base, including the sub-base, base and surface gravel, as well as the surface pavement, must be inspected before the road can be considered acceptable according to the terms in this Ordinance. There may be a fee assessed per inspection, as established by the Select Board. This condition may also be applied to driveways at the discretion of the permitting authority.
- C. For roads, before any clearing is started in the right-of-way, the centerlines and sidelines of the road shall be flagged or staked at 50 foot intervals. The entire travel way including shoulders shall be cleared of all stumps, roots, brush, and other materials. All organic and unsuitable materials shall be removed from the road sub-grade. All rocks and boulders visible at the subgrade and exceeding 6 inches in size shall be removed. Except in a ledge cut all side slopes shall be no greater than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, and seeded.
- D. Erosion and sedimentation must be effectively prevented during and following construction. The acceptability of proposed and employed methods will be judged utilizing the latest edition of the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection.
- E. Once a driveway or road is built, the permit-holder is responsible for maintenance. Ditches, culverts, bridges, drainage dips, water turnouts and other storm water runoff control installations associated with driveways will be maintained on a regular basis to assure effective functioning. Any drainage or sedimentation that originates from a parcel of private land that either (a) presents a public hazard, or (b) causes damage to the public road system, will be considered a violation of this Ordinance.
- F. If a permitted driveway or road is to be paved, widened, or altered in grade or drainage, a permit must be obtained from the same permitting official that issued the original permit.
- G. A permit for any driveway or road for which the Planning Board determines that an as-built inspection by a Professional Engineer is necessary, including but not limited to collector roads and any roads to be proposed for Town Acceptance, will include such a condition. The Professional Engineer, registered in the State of Maine, will certify in writing that the road has been built to meet or exceed Town permit requirements, and that it complies with any plans submitted by the applicant. The letter will be reviewed by both the Planning Board and Road Commissioner, who shall each certify that they accept the findings therein by signing a Certificate of Compliance as provided in Section 10.D below. Roads may not be open for general use, nor any performance bond released, until this Certificate is approved by both parties.

## SECTION 10. TOWN ACCEPTANCE PETITION PROCEDURE

### A. ELIGIBILITY

A new or existing private road may be offered for dedication to the Town in full title or non-maintained Public Easement. While any Public Easement offer may be proposed, only the following full title dedications may be considered:

1. Local or Collector Road Service Level
2. Bituminous Surface, which may be applied following a vote of Town Acceptance secured through a performance bond
3. L-shaped Turn Around if a dead-end road
4. Must be certified by Professional Engineer registered in the State of Maine to meet all the standards within this Ordinance based upon an as-built inspection reviewed and accepted by both the Planning Board and Road Commissioner

### B. PUBLIC EASEMENT PETITION PROCEDURE

Anyone wishing to offer a Public Easement to the Town for acceptance should contact the Town Manager for the procedure to utilize.

### C. FULL TITLE PETITION PROCEDURE

#### 1. Petition Procedure Outline



2. New or Roads to be Altered For a new road or existing road to be altered, the petitioner begins by submitting both a Road Permit Application and Town Road Acceptance Petition to the Road Commissioner and Planning Board. The Town Road Acceptance Petition must describe, in a form acceptable to the Town Attorney, the property that the owner intends to dedicate to the Town for highway purposes, and state that the owner waives any claim for damages. The letter must indicate whether the dedication is for a full title or a Public Easement. A road requiring a Road Permit will follow all requirements in this Ordinance.
3. Existing Roads Petitions for existing roads are directed to the Road Commissioner, who will make recommendations to the Select Board on managing the request. There will be a two-year waiting period following a request to designate a road that was not inspected at the time of construction as a Town road. If the road appears to meet all the criteria of this ordinance following an inspection by a Professional Engineer, registered in the State of Maine, the

waiting period will then begin. The road will be inspected at various intervals during and at the conclusion of the waiting period. There will be a fee per inspection, as established by the Select Board.

#### D. CONDITIONS FOR CERTIFICATE OF COMPLIANCE

1. Engineer Certification Once a road to be offered to the Town is completed, the petitioner shall submit a written certification signed by a Professional Engineer registered in the State of Maine stating that the road as built meets or exceeds the design and construction requirements of this ordinance.
2. Waiting Period for Roads Already Constructed There will be a two-year waiting period following a request to designate a road that was not inspected at the time of construction as a Town road. If the road appears to meet all the criteria of this ordinance following an inspection, the waiting period will then begin. The road will be inspected at various intervals during and at the conclusion of the waiting period. There will be a fee per inspection, as established by the Select Board.
3. Two (2) Year Guarantee Following Acceptance The petitioner agrees to guarantee for two years following acceptance that the road was built in accordance with the construction standards of this ordinance and, after receiving written notice from the Select Board, agrees to reimburse the Town for repairs resulting from any design or construction defects beyond the normal wear and tear from ordinary use. If any legal action is brought against the petitioner in the name of the Town in order to collect the costs for repairing the road, and the Town prevails, then the applicant shall be liable and responsible for the Town's legal fees and court costs and any other costs involved in bringing such suit or action.
4. Issuance of Certificate of Compliance The Road Commissioner and Planning Board must rule within 60 days of either (a) the receipt of an engineer's certification for a new road, or (b) the end of the two-year waiting period for an existing road, on whether or not the road meets the physical requirements of this ordinance. The Road Commissioner shall make their determination of compliance and sign the Certificate of Compliance if the requirements of this ordinance have been met. The Planning Board shall also vote on whether the road appears to meet the requirements of this ordinance. If a majority vote in favor, the Chairman or Secretary shall also sign the Certificate of Compliance on behalf of the Board. If either party rejects the petition, the road may not be presented for acceptance at Town Meeting. The petitioner may appeal the decision to the Board of Appeals.

#### E. TOWN ROAD ACCEPTANCE PETITION DELIVERED TO SELECT BOARD

1. Filing of Petition After obtaining the Certificate of Compliance, the petitioner shall file a Town Road Acceptance Petition with the Select Board. The procedure is otherwise as directed in 23 M.R.S. §3025.
2. Negotiation and Decision Process After receiving a public dedication for a road that has been issued a Certificate of Compliance, the Select Board will meet with the petitioner to discuss the request and negotiate terms of the offer beyond the requirements of this Ordinance. A public hearing will be held before determining whether and with what conditions, an article might be placed on a warrant for a vote of Town acceptance.

#### F. TOWN-INITIATED NEW ROADS

The Select Board may also initiate purchase and acceptance of a road they wish to lay out as a town way, requiring the authorization of funds in addition to acceptance at a town meeting. The same minimum standards in this Ordinance will apply to any road initiated by the Select Board.



## ARTICLE VII. SHORELAND ZONE STANDARDS

### SECTION 1. PURPOSE

The purposes of the performance standards within this Article are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

### SECTION 2. APPLICABILITY

In addition to townwide standards in other portions of this Ordinance, the provisions of this Article apply as described to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river or upland edge of a freshwater wetland (Resource Protection, Wetland Protection and Lakefront Districts), and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream (Stream Protection District). District designations are best viewed on the Town of Fayette Land Use District Map, which serves as the Official Shoreland Zoning Map for the Town of Fayette.

### SECTION 3. INTERPRETATIONS AND CONFLICTS

Should there be any conflict between the standards within this Article and any other provisions within this Ordinance, the stricter provision shall apply.

### SECTION 4. ADDITIONAL PERFORMANCE STANDARDS

#### A. PRINCIPAL AND ACCESSORY STRUCTURES

1. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a freshwater wetland. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply. The Planning Board is authorized to increase the required setback structure if necessary to accomplish the purposes of this Ordinance.

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NOTE: The *Natural Resources Protection Act*, 38 M.R.S. §§480-A through 480-HH, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat".

Permitting under the *Natural Resources Protection Act* for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

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In addition:

- a. The water body, tributary stream, or freshwater wetland setback provision shall neither apply to structures which require direct access to the water body or freshwater wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- b. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or

freshwater wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

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NOTE: A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream are applicable.

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2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Lakefront, Wetland Protection and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
3. In the Lakefront and Wetland Protection Districts, a cupola or other non-habitable building feature mounted on a building roof for observation purposes may be added to an existing legally conforming structure provided that it:
  - a. does not extend beyond the exterior walls of the existing structure,
  - b. has a floor area of 53 square feet or less, and
  - c. does not increase the height of the existing structure by more than 7 feet.
4. Non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as non-vegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

5. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
  - a. The site has been previously altered and an effective vegetated buffer does not exist;
  - b. The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a freshwater wetland;
  - c. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  - d. The total height of the wall(s), in the aggregate, are no more than 24 inches;
  - e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

- f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a freshwater wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
  - (1) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch
  - (2) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff
  - (3) Only native species may be used to establish the buffer area
  - (4) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a freshwater wetland
  - (5) A footpath not to exceed the standards in Section 4.L.2.(a) may traverse the buffer.

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NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body or tributary stream, a permit pursuant to the *Natural Resource Protection Act* is required from the Department of Environmental Protection.

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- 6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a freshwater wetland, (unless permitted by the Department of Environmental Protection pursuant to the *Natural Resources Protection Act*, 38 M.R.S. §480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.
- 7. The Planning Board may approve a permit for a single family residential structure in a Resource Protection District by special exception provided that all Review Criteria as well as the following conditions are met:
  - a. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
  - b. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
  - c. All proposed buildings, sewage disposal systems and other improvements are:
    - (1) Located on natural ground slopes of less than 20%; and
    - (2) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.



- d. The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- e. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

#### B. CAMPGROUNDS

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

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a freshwater wetland.

#### C. INDIVIDUAL PRIVATE CAMPSITES

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

1. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a freshwater wetland.
3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

#### D. COMMERCIAL AND INDUSTRIAL USES

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

1. Auto washing facilities
2. Auto or other vehicle service and/or repair operations, including body shops
3. Chemical and bacteriological laboratories

4. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
5. Commercial painting, wood preserving, and furniture stripping
6. Dry cleaning establishments
7. Electronic circuit assembly
8. Laundromats, unless connected to a sanitary sewer
9. Metal plating, finishing, or polishing
10. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
11. Photographic processing
12. Printing

#### E. PARKING AREAS AND PARKING LOTS

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
2. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - a. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - b. Internal travel aisles: Approximately twenty (20) feet wide.

#### F. ROADS AND DRIVEWAYS

In addition to the townwide standards in Article VI, The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features in the Shoreland Zone.

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

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

Section 4.F.1 does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 4.F.(1) except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or freshwater wetland.
3. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a freshwater wetland.
4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained Article V, Section 11.

#### G. SIGNS

Signs in the Shoreland Zone shall follow the townwide requirements except that signs relating to goods and services sold on the premises shall not exceed six (6) square feet in area.

#### H. SEPTIC WASTE DISPOSAL

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a freshwater wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

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NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

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#### I. ESSENTIAL SERVICES

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

#### J. MINERAL EXPLORATION AND EXTRACTION

Part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a freshwater wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

#### K. AGRICULTURE

1. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or freshwater wetlands. All

manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

2. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

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NOTE: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

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3. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies, nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
4. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies, nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board.

#### L. CLEARING OR REMOVAL OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING

1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in Section M.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. Except in areas as described in Section L(1), above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a freshwater wetland, a buffer strip of vegetation shall be preserved as follows:
  - a. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

- b. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees is maintained. For the purposes of this subsection, a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 12 or more in each 25-foot by 25-foot rectangular (625 square feet) area as determined by the following rating system.

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

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 8 per 25-foot by 25-foot rectangular area.

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NOTE: As an example, adjacent to a great pond, if a 25-foot x 25-foot plot contains three trees between 2 and 4 inches in diameter, three trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and no trees over 12 inches in diameter, the rating score is:  $(3 \times 1) + (3 \times 2) + (3 \times 4) = 21$  points. Thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling 9 points  $(21 - 9 = 12)$  may be removed from the plot provided that no cleared openings are created.

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The following shall govern in applying this point system:

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

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

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

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 4.L paragraphs (2) and (2)(a) above.
- d. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q, below, unless existing new tree growth is present.
  - f. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 4.L(2).
3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a freshwater wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

- 4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- 5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 4.L.

#### M. HAZARD TREES, STORM-DAMAGED TREES, AND DEAD TREE REMOVAL

- 1. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height and be no less than two (2) inches in diameter. Stumps may not be removed.
  - b. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
  - c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of

new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

- d. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
  - e. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
2. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- a. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
    - (1) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas
    - (2) Stumps from the storm-damaged trees may not be removed
    - (3) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree, and
    - (4) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
  - b. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

#### N. EXEMPTIONS TO CLEARING AND VEGETATION REMOVAL REQUIREMENTS

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 4.L provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this Section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 4.L apply.
2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of Section 4.A are not applicable
3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility
4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of Article V, Section 10 and Article VII, Section 4.N are complied with

5. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  - a. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - b. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools, and
  - c. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

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NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program:  
[http://www.maine.gov/dacf/mnap/features/invasive\\_plants/invasives.htm](http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm)

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6. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

#### O. REVEGETATION REQUIREMENTS

When revegetation is required in response to violations of the vegetation standards set forth in Section 4.L to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.
3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
4. Revegetation activities must meet the following requirements for trees and saplings:
  - a. All trees and saplings removed must be replaced with native non-invasive species
  - b. Replacement vegetation must at a minimum consist of saplings
  - c. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used
  - d. No one species shall make up 50% or more of the number of trees and saplings planted
  - e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant



trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures, and

- f. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) year period.
5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
    - a. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable
    - b. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater
    - c. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted
    - d. No one species shall make up 50% or more of the number of planted woody vegetation plants, and
    - e. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.
  6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
    - a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater
    - b. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater, and
    - c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

#### P. EXCAVATION CONTRACTOR CERTIFICATION REQUIRED

When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state, and federal employees engaged in projects associated with that employment.

## ARTICLE VIII. LAND USE REVIEW

### SECTION 1. PURPOSE

The purpose of Land Use Review is to conduct a fair and efficient process of low-impact land use applications to consider whether and how they may meet the applicable standards within this Ordinance.

### SECTION 2. APPLICABILITY

The following land use activities, and any that are similar in nature, require a Land Use Permit. However, if sufficiently complex, the Planning Board may determine that any of the following uses requires a multi-staged review process normally conducted for a Development Permit (see Article IX.)

#### A. TOWNWIDE

1. Construction, placement, enlargement, alteration, movement, or demolition of any structure, including a mobile home
2. Adding or removing a bedroom in an existing dwelling unit, regardless of the change to the building footprint
3. Creation of a principal or accessory dwelling unit (more than two (2) units on a single lot require a Development Permit)
4. Any new, repurposed, or expanded commercial, industrial, governmental, or institutional use that does not require a Development Permit
5. Installing a free-standing sign
6. Filling and/or earth moving of over one hundred (100) cubic yards per calendar year
7. Creation of a new or expanded parking lot
8. Existing licensed summer camps, campgrounds and other non-permitted facilities that rent their property for use by others
9. Family burial plot
10. Individual private campsite
11. Simultaneous short-term rental of more than one (1) unit or portion thereof on a lot
12. Any other low impact use as specified in the Land Use Table (Article IV, Section 3)

#### B. SHORELAND ZONE DISTRICTS ONLY

1. Fill and earth moving of over ten (10) cubic yards per calendar year
2. Clearing or removal of vegetation for purposes other than timber harvesting
3. Creation of a new or expanded parking area
4. Home occupation
5. Essential services
6. Agriculture

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NOTE: Land Use Review is not required of the following land use activities:

1. Timber harvesting (see definition; permanent wood yards are not excluded)
  2. Temporary events, such as fairs, parades, weddings, and yard sales (except as rented by event venues)
  3. Driveways, roads, developments, and subdivisions with their own review processes
  4. Interior remodeling that does not add or remove a bedroom (may require Internal Plumbing Permit)
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### **SECTION 3. SUBMITTAL REQUIREMENTS**

#### **A. INFORMATION REQUIRED**

The standard Land Use Permit Application form shall include the following submittal requirements:

1. Name(s) and contact information for applicant(s) and any authorized agent(s)
2. Property location including the Fayette tax map and lot number
3. Verification of right, title, or interest in the property
4. The appropriate permit fee
5. The date any non-conformances were created (lots or uses)
6. Estimated cost of the proposal
7. Schedule of construction including anticipated beginning and completion dates
8. Plumbing and/or subsurface wastewater disposal application, if applicable
9. A written description of the proposed project
10. A scaled map drawn on an aerial photo of the property with parcel boundaries shown (available at the town office) showing the following:
  - a. Location and dimensions of existing and proposed structures or additions and non-vegetated areas including but not limited to driveways and parking areas
  - b. Setbacks from road and property boundaries
  - c. Existing and proposed locations of wells and septic systems
  - d. Existing and proposed erosion and stormwater management controls
  - e. Any other significant existing or proposed project elements
11. Any other information necessary to show that the proposal complies with the applicable provisions of this Ordinance.

#### **B. COPIES AND DEADLINES**

1. For applications authorized by the Code Enforcement Officer, one signed original copy of a complete application is sufficient.
2. For applications to be reviewed by the Planning Board, ten (10) copies of a complete application must be submitted to the Code Enforcement Officer at least fourteen (14) days prior to a scheduled Planning Board meeting to be placed on that meeting agenda.

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NOTE: The CEO or Planning Board may identify additional information needed based upon potential impacts of the proposed activity.

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### **SECTION 4. PERMITTING AUTHORITY**

The Land Use Table (Article IV, Section 3) serves as a guideline for whether a proposed use is approved by the CEO or the Planning Board. The CEO will make a determination at the time the application is received and advise the applicant on the process to be followed. At any time the CEO is not comfortable being the sole decision-maker, the CEO may request that the Planning Board conduct the review.

### **SECTION 5. CODE ENFORCEMENT OFFICER REVIEW PROCEDURE**

- A. Within fourteen (14) days of receiving a permit application, or additional requested information or material, the Code Enforcement Officer shall determine if the application is complete and shall notify the applicant in writing that the application is complete, or if the application is not complete, shall identify the specific additional materials that are needed to make the application complete.

- B. Within fourteen (14) days of determining that the application is complete, the Code Enforcement Officer shall render a final decision to approve or to deny the permit application. The final decision shall be based on whether or not the application meets the requirements of this Ordinance. The final decision shall be issued in writing to the applicant. If the application is approved, the Code Enforcement Officer shall issue the permit within seven (7) days.
- C. The Code Enforcement Officer also serves as consultant to and as designee for the Planning Board in situations requiring Planning Board review. He/she is available to the applicant for consultation, reviews the application and, when the application is complete, submits it to the Planning Board. If the application is approved by the Planning Board, the Code Enforcement Officer shall issue the permit within seven (7) days.

## **SECTION 6. PLANNING BOARD REVIEW PROCEDURE**

- A. It is strongly recommended that the applicant attend the Planning Board meeting to discuss the proposal.
- B. At the meeting, the Planning Board shall:
  - 1. Formally classify the Application as either a Land Use or a Development Permit Application
  - 2. Confirm that the activity is lawfully allowed in the District in which it is proposed with the Board's approval
  - 3. Determine whether the Application is sufficiently complete to initiate the review process for the purposes of bringing the application under the protection of *1 M.R.S. §302*
  - 4. If not complete, determine what is needed to complete the application in order to commence the review process
  - 5. Listen to the applicant's description of the proposed activity and ask questions to understand what is desired and explore potential impacts
  - 6. Listen to members of the public who may have concerns about the proposal
  - 7. Identify any particular issues of concern, along with anticipated information needed to fully consider these concerns
  - 8. Determine whether a site visit is necessary and how it will be scheduled
  - 9. Indicate whether outside expertise is anticipated to be needed to advise the Board on technical information and discuss potential costs and timeline with the applicant
  - 10. In consultation with the applicant, determine whether and when a public hearing and abutter notices shall be required in consultation with the applicant
  - 11. Clearly outline all further steps needed for the review process, including those details delegated to the CEO to address between meetings
- C. The Board may take any of the following actions at the initial meeting:
  - 1. Approve the Application, with or without conditions
  - 2. Deny the Application
  - 3. Table the Application pending receipt of additional information, including that collected during a site visit if scheduled
  - 4. Schedule a site visit and/or public hearing
  - 5. If classified as a Development Permit Application, conduct the Concept Plan meeting as described in Article IX.
  - 6. Make any other arrangements needed to move the process forward

## **SECTION 7. APPROVAL CRITERIA**

The CEO or Planning Board, as applicable, shall approve an application, with or without conditions, if it makes finding of facts that the proposed use will satisfy the following requirements:

- A. The application is complete, and the applicable permit fee has been paid.
- B. The applicant has the legal authority to conduct the proposed activity on the site.
- C. The proposal conforms to all applicable provisions of this Ordinance.
- D. The proposal will not result in water pollution, erosion, or sedimentation to surface waters.
- E. All wastewater will be properly disposed of by the use of an approved treatment method.
- F. The proposal will not have an adverse impact upon spawning grounds, fish, aquatic life, bird, or other wildlife.
- G. The proposal will conserve shore cover, vegetation, and visual quality, as well as actual points of access to inland waters.
- H. Archeological and historic resources as designated in the Town of Fayette Comprehensive Plan will be protected.
- I. The proposal will avoid problems associated with floodplain development and use.
- J. The proposal will maintain safe and healthful conditions.
- K. The proposed use will be established and maintained in accordance with an approved erosion and sediment control plan.
- L. Access to the site from existing or proposed roads will be safe and adequate.
- M. The proposed use will not cause or aggravate undue traffic conditions.
- N. The proposed use will have adequate water supplies to meet the demands of the proposed use and for fire protection.
- O. The proposed use will provide for adequate management of stormwater runoff without adverse impact on the site, adjacent land, or water bodies.
- P. The proposed use will not decrease the quality, or significantly decrease the quantity, of groundwater.
- Q. The proposed site design provides adequate buffer space and on-site drainage and landscaping to protect neighboring property from detrimental factors of the proposed use.
- R. Proposed activities will be managed to sufficiently protect neighboring property from detrimental impacts of the proposed use.
- S. Any other approval criteria specific to the proposed land use or development are met.

## ARTICLE IX. DEVELOPMENT REVIEW

### SECTION 1. PURPOSE

The purpose of Development Review is to provide a process and standards for land use activities that are potentially more impactful than typical small-scale land use activities. The intent is to ensure that more intensive land use activities are developed in such a manner that they will protect Fayette's natural resources, infrastructure, public health, public safety, rural character, and neighborhood integrity.

### SECTION 2. APPLICABILITY

A. Permit Required Land uses meeting any of the following criteria must receive Development Permit approval from the Planning Board.

1. Any new, repurposed, or expanded use that is expected to generate more than fifty (50) one-way vehicle trips/day

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NOTE: This is the MaineDOT standard for requiring a more involved entrance permit rather than driveway permit. The latest edition of the *Trip Generation Manual* published by the Institute of Traffic Engineers will be used as a reference when needed to make this determination.

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2. Any new development or expansion, that when combined with existing development, will result in more than 20,000 square feet of combined building and non-vegetated surface area
3. Three or more dwelling units on a lot if not approved as a subdivision
4. New and existing commercial gravel and mineral extraction operations (*defined as removing 100 cubic yards or more of material in any 12-month period*)
5. Campground
6. Marina
7. Restaurant, event venue or similar operation
8. Water extraction business
9. Wireless telecommunication facility
10. Utility scale solar facility
11. Any new or expanded land use activity that has the potential to emit more than background levels of lighting, noise, odor, smoke, fumes, or other possible nuisance to neighbors without targeted mitigation measures in place.

B. Exceptions Development Review is not required of the following land use activities:

1. Agricultural production outside of Shoreland Zone (*see definition; buildings and impervious surfaces are not excluded*)
2. Timber harvesting (*see definition; permanent wood yards are not excluded*)
3. Temporary events, such as fairs, parades, and yard sales (*except as rented by event venues*)
4. Constructing driveways and roads as approved by the Planning Board, or
5. Developing a subdivision as approved by the Planning Board.

C. The CEO is authorized to make the applicability determination if not recognized by the applicant.

### **SECTION 3. GENERAL REQUIREMENTS**

- A. Coordination with Other Town Permit Requirements Successful completion of the review process will include the approval of other necessary Town land use permits.
- B. Subsurface Wastewater Disposal System Permit Required Prior to Submittal The applicant shall pursue the design of any planned subsurface wastewater disposal system and obtain the Plumbing Inspector's approval of the design prior to submitting a Preliminary Application.
- C. Other Relevant Applications Attached Upon request for a Development Permit Application, the Town will attach applications for all potentially relevant permits to the basic Development Permit Application form. Attached permit applications will be numbered as both Development Permit Applications and individual permit applications. All relevant applications shall be completed and submitted together with the Development Permit Application.
- D. Development Permit Contingent on Other Permit Requirements Standards required for the following other applicable Town permits related to the proposed development shall be met as conditions of any Development Permit issued: Subsurface Wastewater Disposal Permit, Entrance Permit, Road Permit, Flood Hazard Development Permit, Shoreland Zoning approval, and Building Permit.
- E. Coordinated Review by Planning Board The Development Permit application will be considered by the Planning Board, with portions that are normally reviewed by the Code Enforcement Officer, Road Commissioner and/or Fire Chief delegated to those officials by the Planning Board. The reviewing authorities will report their findings directly back to the Planning Board; approval for final construction (of a road, entrance, building, etc.) will not be granted until the Development Permit is approved.
- F. Rights Reserved if Development Permit is Denied If the Development Permit is denied, permits for other uses on the site may be requested by the applicant as outlined in Town ordinances. The request must be made in writing and dated by the Town Clerk.
- G. Applications Identical to Development Permit Application To the extent that Town permit officials have already approved portions of the proposed development during the Development Review procedure (e.g. an entrance design), a permit will be issued upon request of the applicant if the design does not change.
- H. Applications Changed from Development Permit Application If the application is at all altered from the design submitted for the Development Permit, a new application must be filed but the fee will be waived, as long as the new application is made within 12 months of the Development Permit denial.
- I. Applications filed more than 12 months from Development Permit Denial After 12 months, any application will be treated like a new application.

### **SECTION 4. DEVELOPMENT REVIEW PROCEDURE**

#### **A. CONCEPT PLAN REVIEW**

The applicant shall submit to the CEO, at least 14 calendar days prior to the Planning Board's scheduled monthly meeting, 10 copies of a Concept Plan showing the proposed layout of the development or the commercial activity in relation to existing conditions and a brief narrative containing the following information:

- 1. Concept Plan Narrative (10 copies)
  - a. Names, addresses and phone numbers of property owner(s), applicant(s), and all consultants working on the project
  - b. Name and description of the proposed development and desired timeframe
  - c. Description of site opportunities (e.g. road access, good soils, existing buildings) and constraints (e.g. wetlands, streams)
  - d. Identification of any other relevant studies that are available or will be commissioned during project development

2. Concept Plan Graphic (10 copies) The Concept Plan shall be drawn roughly to scale, preferably superimposed over an aerial photograph (copies may be made of the Town's aerial photos at the Town Office). Outlines of proposed buildings, roads and other aspects of the development shall be included in the sketch. Existing natural and built features, including streams, wetlands and existing buildings should be clearly identifiable on the sketch.
3. Combined Concept Plan and Site Inventory and Analysis Allowed at Applicant's Option An applicant who does not wish to have any Site Inventory and Analysis requirements waived, may present a Concept Plan with the Site Inventory and Analysis at the initial meeting. The CEO shall provide one copy to each Planning Board member for their review prior to the meeting, post one copy for public inspection in the Town Office, keep a copy for the CEO's use, and file the other copy.
4. Planning Board Action In addition to the relevant steps listed within Section 3.C.2 above, the Board shall:
  - a. Determine requirements for the Site Inventory and Analysis, including issuing waivers for unnecessary information
  - b. Indicate whether a performance bond, monitoring process or other requirement with a fiscal impact is likely to be required as a condition of approving the Final Development Review Application
5. Applicant Decision Based upon this information, the Applicant may decide to proceed with the Site Inventory and Analysis or withdraw the application.

#### B. SITE INVENTORY AND ANALYSIS

1. Content The Site Inventory and Analysis shall contain the following information, unless waived by the Board:
  - a. Project name, north arrow, scale, date, and legend
  - b. Topography of the site at an appropriate contour interval (2 to 20 foot), depending upon the character of the site and the proposed use, with arrows identifying existing drainage patterns on the site (the survey references from which elevation was determined should be clearly marked both on the plan and at/near the site)
  - c. Major natural features of the site, including wetlands, streams, ponds, flood hazard areas, springs, wooded vs. cleared land, etc.
  - d. Existing legal restrictions, easements, or zoning applicable to the property
  - e. Soils information of at least medium intensity, with prime and regionally significant farmland, hydric and highly erodible soils identified, as well as drainage profiles for those areas in the development area and relevant for stormwater management
  - f. Identification of any current or recent use of site for agricultural production
  - g. Existing and/or proposed access to site
  - h. Parcel boundaries and names of abutting landowners
  - i. Location of existing wells on any property within 200 feet of the area proposed for development
  - j. Any existing structures, culverts, utility poles, signs or other prominent man-made features located on the parcel or on any property within 100 feet of the area to be developed.
2. Waivers The Planning Board may waive any of the above requirements that are not pertinent to the site or proposed development.
3. Board Review of Site Inventory and Analysis The applicant shall attend the meeting of the Planning Board at which the Site Inventory and Analysis will be considered, present an oral summary of the information and answer questions the Board may have. Following the review of the Site Inventory and Analysis, the Board and applicant will review the Preliminary



Development Submission Requirements and determine which of them, if any, may be waived due to inapplicability.

### C. PRELIMINARY APPLICATION

1. Timing Within six months after the Concept Plan has been reviewed by the Board, the developer shall submit a Preliminary Application at least 10 days prior to a scheduled meeting of the Board. If the developer fails to act within the six-month time frame, the Board may require the developer to resubmit the Concept Plan for reasons including but not limited to possible changes in Board membership, changes in local or state regulations, and subsequent development in the town that could have an impact on the proposed plan. The Preliminary Development shall approximate the layout shown on the Concept Plan and may include recommendations made by the Board based upon its on-site inspection of the proposed project.
2. Number of Copies Submitted The applicant shall submit ten (10) copies of the narrative portion of the Preliminary Application. One copy of any aerial photo is sufficient. Ten (10) copies of each plan describing site conditions and the proposed development shall be submitted and shall be drawn at a scale of not more than 100 feet to an inch. One copy of each submittal shall remain on file in the Town Office, and another will be posted for public inspection.
3. Submission Requirements The Preliminary Application shall include:
  - a. Narrative (10 copies) Each copy of the narrative information shall be stapled or otherwise bound together and shall follow the order of this Section. Any additional information offered should be added to the end of the narrative. The narrative shall at a minimum contain the following information:

#### General Information

- (1) Signed copy of the application cover sheet
- (2) Names, addresses and telephone numbers of (a) the property owner; (b) the applicant; and (c) all consultants hired to date to assist with the project (e.g. surveyors, engineers, architects, planners, site evaluators, builders etc.), with area of responsibility indicated
- (3) Name and brief description of proposed development
- (4) Number of acres in the parcel and of the portion to be involved in the proposed development
- (5) Tax map and lot number of the parcel(s) involved
- (6) A copy of the deed to the property, option to purchase the property, or other documentation to demonstrate right, title or interest in the property on the part of the owner
- (7) If the applicant is not the owner of the property, written certification signed by the owner that the applicant is the owner's duly authorized agent
- (8) The name, registration number and seal of the land surveyor, architect, engineer or similar professional who prepared the plan
- (9) A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property
- (10) A copy of any proposed covenants, deed restrictions, easements, rights-of-way, or other encumbrances to be placed upon the property or secured from abutting properties.

### Specific Information

- (1) In the case of new construction, a copy of the Subsurface Wastewater Disposal System Design (Form HHE-200), prepared by a licensed site evaluator and approved by the Plumbing Inspector. In the case of existing systems, if the original system design is not available, certification from the Plumbing Inspector that the system is sufficiently sized for the proposed activity and is functioning properly.
- (2) Number and type of vehicle trips anticipated to be generated by the proposed use averaged for days open for business. The method of estimation for each type of trip (employee, customer, delivery, etc.) should be explained.
- (3) Description of parking needs, based on similar analysis
- (4) A soil erosion and sedimentation control plan. The acceptability of the proposed and employed methods of erosion and sedimentation control will be judged utilizing the latest edition of *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection. The vegetative buffer required to absorb surface water runoff should be incorporated in the plan.
- (5) Identification of prime and regionally significant farmland, hydric and highly erodible soils at a level of intensity that will appropriately guide the location of the proposed development
- (6) A stormwater management plan, prepared by a registered professional engineer in accordance with the latest edition of the Maine Stormwater Best Management Practices Manual published by the Maine Department of Environmental Protection. The stormwater management plan must be designed to work in concert with the erosion and sedimentation control plan, along with the vegetative buffer, to control the quality as well as direction of storm water runoff. Soils will be identified by drainage profile.
- (7) A description of the location, extent, slope, and vegetation to be used to absorb surface water runoff (*this may be incorporated in the erosion and sedimentation control plan*)
- (8) If any new or improved road is proposed as part of the development, the applicant shall submit information as required in Article VI, Sections 7-8.
- (9) A description of any noise, odor, smoke, glare, electromagnetic fields, or other nuisance that may be generated by the development, and proposed methods of complying with the standards outlined in Section 5.E.
- (10) Description of the source of water for the project, including firefighting water source
- (11) Description of any land on the property (including acreage, location, and use) currently used for agricultural production and plan for future use of the land in compliance with Section 5.B.5.
- (12) If potentially permeable substances that might pollute ground and/or surface water will be used at the proposed site, the means of complying with Section 5.C.3.
- (13) If 400 or more vehicle trips will be generated by the proposed development, documentation prepared by a qualified professional (usually a traffic engineer) of sufficient detail to enable the Board to ensure that the traffic flow standard cited within Section 5.D.5 is met.

- b. Aerial photograph (one copy) Aerial photograph of the land, to a scale of not more than 100 feet to an inch, marked up with the general configuration of the proposed development.
- c. Accurate Inventory Plan of the Site (10 copies) Plan showing the existing site conditions, at a scale of not more than 100 feet to an inch, including at a minimum the number of acres within the proposed development, the location of the property lines, contour intervals at an appropriate interval of 2-20 feet (set by the Board, depending upon the character or the site and the proposed development), wooded and clear land, watercourses, wetland areas, agricultural land, existing buildings, utility poles, location of culverts, soil test sites, and other essential existing physical features.

d. Proposed Development Plan (10 copies)

The plan should be drawn at the same scale as the Inventory Plan, and at a minimum include the following:

- (1) Location of soil test pits and elevation references used in Subsurface Wastewater Disposal System Design
- (2) Location and dimensions of all proposed structures, roads, entrances, parking areas, signs, lighting, utilities, and other physical features to be constructed, with applicable setbacks identified
- (3) Location and size of culverts, direction of drainage paths and other elements of the Stormwater Management Plan
- (4) Location of areas referenced within the Erosion and Sedimentation Control Plan
- (5) Location, extent, and slope of vegetative buffer, with description of vegetation noted.
- (6) Location of water supply
- (7) Location, description and visual rendering of proposed landscaping and buffering.
- (8) Plans for pedestrian access and circulation, including accommodations for persons with disabilities
- (9) If any portion of the development contains land used for agricultural production, delineation of remaining portion of land available for agricultural use
- (10) If any portion of the development is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan
- (11) Any other graphic information necessary to demonstrate the satisfaction of the requirements of Section 7 of this ordinance

4. Waivers The Board may waive any submission requirement that it feels is unnecessary for reaching its findings of fact in approving or disapproving the proposed development in accordance with the provisions of this Ordinance.

5. Review Process Guidelines

- a. Notification of Complete Application Within 30 days of receipt of a Preliminary Application form and fee(s), the Board shall notify the applicant in writing whether or not the application is complete and what, if any, additional submissions are required for a complete application. This determination will initiate the review process for the purposes of bringing the application under the protection of *1 M.R.S. §302*.
- b. Public Hearing If a public hearing is deemed necessary by the Board for reasons including but not limited to expressed public concern, a dramatic physical change of the environment or a population increase of considerable proportions that may result from the proposed development, the hearing will be scheduled within 30 days of determining that the Preliminary Application is complete.
- c. Timing of Decision The Board shall within 30 days of a public hearing, if held, or within 60 days of a complete Preliminary Application, or within another time limit as may be otherwise mutually agreed to by the Board and the developer, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Application. If

the Board finds that any of the standards of this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure that all of the standards will be met by the development.

- d. Independent Professional Review The Board reserves the right to require an independent review by one or more professional(s) of its choice of any proposed plans, specifications, surveys, improvements, or environmental impact reports submitted by the developer as part of the application as outlined in Article II, Section B.3.
- e. Nature of Preliminary Plan Approval The approval of a Preliminary Application shall not constitute approval of the Final Application or intent to approve the Final Application unless this is clearly stated by the Board. The Board may, upon Preliminary Application approval, issue a Development Permit if the Preliminary Application satisfies conditions of this ordinance without needing to be redrawn or changed enough to warrant a Final Application. If the requirements of the Board are clear and agreeable to the applicant, the Board may attach permit conditions to a Development Permit based upon a Preliminary Application rather than require submittal of a Final Application.
- f. Final Plan Submission Requirements Determined In its written decision on the Preliminary Application, the Board shall indicate what information and the number of copies the applicant will have to submit in the Final Application. The Board shall seek to minimize redundancy of the Preliminary Application and avoid unnecessary costs to the applicant.

D. FINAL APPLICATION (UNLESS APPROVED AT PRELIMINARY APPLICATION STEP)

- 1. Final Plan Submittal The developer shall, within six months after the approval of the Preliminary Application, file a Final Application with the Board. If the Final Application is not submitted within six months after Preliminary Application approval, the Board may refuse without prejudice to act on the Final Application and require resubmission of the Preliminary Application. The Final Application shall include the information required by the Board in the Preliminary Application approval plus copies of any required written approvals from state agencies such as the Maine Department of Environmental Protection. The CEO will deliver copies to members of the Planning Board and post one copy for public inspection.
- 2. Attendance at Board Meeting The developer or his/her duly authorized representative shall attend the meeting of the Board to discuss the Final Plan.
- 3. Determination of Complete Application The Board, within 30 days of receiving a Final Application, shall decide whether the application is complete. It shall also decide whether any new circumstances or information received since approval of the Preliminary Application warrants requirement of further study prior to proceeding with the review.
- 4. Timing of Decision The Board, within 60 days of receiving a complete Final Application, shall make findings of fact and conclusions relative to the standards contained in this ordinance. If the Board finds that all standards of this ordinance have been met, the Board shall approve the Final Application. If the Board finds that any of the standards of this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure that all of the standards will be met.

## SECTION 5. STANDARDS FOR APPROVAL

The Board shall approve the application if it finds that all Land Use Approval Criteria (Article VIII, Section 7), including that all standards within this Ordinance have been met, including but not limited to the following. For the Specific Uses in Section 7 of this Article, additional Standards and Criteria may apply.

The Board may approve modest deviations from the specific standards provided the intent of the Ordinance is maintained. Conditions will be applied as appropriate to achieve desired performance standards during construction and for the life of the development.

### A. LEGAL STANDARDS

1. Laws Proposed developments and activities shall be in conformance with the requirements of this ordinance and all other applicable federal, state, and local laws.
2. Licensed Operations All business operations requiring a State license to operate have provided satisfactory evidence of existing legal operation or agree not to begin operations until such license is secured and provided to the CEO. The applicant further agrees to submit a copy of their operating license to the CEO at each renewal period, as well as copies of any periodic required water testing, safety, or health inspections as applicable.

### B. LAND AND HABITAT PROTECTION STANDARDS

1. Topsoil Protection Topsoil shall be considered part of the development and shall not be removed from the site except for surplus topsoil from approved construction of roads, driveways, parking areas, and building excavations.
2. Clearing for Development Clearing of the site shall be minimized to that which is necessary, retaining existing healthy trees and vegetation.
3. Stormwater Management The proposed development will provide for adequate stormwater management considering the likelihood of increased volume and intensity of storm events in comparison with the past. The development will be designed to prevent negative impact on other properties, receiving water bodies or the road system. Erosion, sedimentation, and quality of runoff shall be considered, along with the sizing and direction of drainage design. The acceptability of the proposed methods will be judged utilizing the latest edition of *Maine Stormwater Best Management Practices Manual*, published by the Maine Department of Environmental Protection, along with advice received from consulting experts.
4. Erosion Control The development will be designed, constructed and maintained in accordance with accepted erosion and sedimentation control methods. The acceptability of the proposed methods will be judged utilizing the latest edition of *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection.
5. Agricultural Land Protection If the land proposed for development contains land that is currently being or has recently been used for agricultural production, the developer shall demonstrate that the proposed development design minimizes adverse impact and that all feasible options to continue agricultural use of undeveloped portions of the farmland shall be pursued. This standard shall not be construed to obstruct purposeful alternative uses of land but shall seek to prevent land from being permanently removed from agricultural production unnecessarily.
6. Wildlife Habitat and Natural Areas Protection The development will be designed, constructed and maintained utilizing best management practices to protect identified on-site and adjacent vernal pools, riparian areas, deer wintering areas, rare and endangered plant and animal species, and any other identified critical natural resource. There will be no adverse impact upon spawning grounds, fish, aquatic life, birds, or other wildlife.

### C. WATER QUALITY STANDARDS

1. Water Supply The proposed development has planned for an adequate source of water to serve the needs of the development, including fire protection.
2. Wastewater Disposal The proposed development will provide for adequate subsurface wastewater disposal in accordance with the *State of Maine Subsurface Wastewater Disposal Rules*.
3. Groundwater Protection The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water. The applicant shall have to demonstrate to the Planning Board's satisfaction that there is no unusual risk posed to the groundwater by the proposed development or activity. The Board may require, as a condition of permit approval, that spill prevention and control measures be installed, and that all activities involving potentially permeable pollutants, including delivery and transfer points, be conducted under cover and over an impervious surface surrounded by dikes.
4. Surface Water Protection In order to avoid negative impacts on surface water quality, the proposed development will be designed to retain an absorbent vegetative buffer of at least 75 feet downslope of any developed area (i.e. non-vegetated surface). The buffer shall be located, designed and vegetated in such a manner as to effectively prevent any channelization of water or measurable amount of sediment from leaving the site, thus minimizing phosphorus runoff. If access must be provided through the buffer area, drainage shall be designed to guide stormwater from the accessway into the buffer area to prevent phosphorus runoff. The Board may require larger buffer areas or interruption of impervious surface of over one acre in extent with buffer areas if necessary to effectively prevent channelization and absorb runoff on site. Alternative measures (e.g. detention ponds) may be proposed and approved to accomplish this objective.

### D. ACCESSIBILITY STANDARDS

1. Accessways and Connectivity Driveways and roads shall conform to the standards in this ordinance. If the proposed development includes property containing or adjacent to an existing trail open to the public, the development will incorporate the trail into its site design or provide for equivalent re-routing. Developing additional off-road connectivity is encouraged.
2. Access Management In order to promote public safety and maintain road carrying capacity, the development shall be designed so as to minimize access points to any public road, utilizing side roads and combining entrances where feasible. Access shall be designed from the least busy road available (e.g. a corner lot shall have its entrance on the less busy road, unless hazardous).
3. Pedestrian Facilities Adequate provisions shall be made for pedestrian accessibility within the development, including meeting Americans with Disabilities Act accessibility standards.
4. Circulation and Parking The development will provide for adequate internal circulation and off-road parking for anticipated residents, customers, guests, and deliveries, and will provide for parking and access for people with disabilities in compliance with the Americans with Disabilities Act. Parking areas will be designed to provide safe and convenient circulation within the lot and to prevent vehicles from backing out onto a road. Safe drop-off locations that do not impede circulation will be provided for transit and delivery vehicles, as appropriate.
5. Traffic Management Traffic into and surrounding the development will be safe and not cause congestion on any road accessing the development.
6. Waterfront The development will not reduce public access to the waterfront.

## E. NUISANCE AND AESTHETIC STANDARDS

1. Nuisance Containment The development or activity shall be designed so as to incur no off-site adverse impacts, including but not limited to glare, dust, smoke, fumes, noise and odor, beyond those consistent with existing background levels. In order to achieve this standard, the Board may require that functions occur within properly designed buildings and/or the installation of landscaped buffer areas adequate to protect neighboring property owners and/or the traveling public from disturbance that would otherwise exceed background levels. Failure to achieve these standards shall be a reason to deny the application.
2. Noise Levels Noise perceptible at the property boundary, exclusive of background noise, shall not exceed 55 dB(A) from 6am (8am on Sundays) to 8:30pm and 45 dB(A) from 8:30pm to 6am (8am on Sundays), where dB(A) refers to the decibel (20 times the logarithm to the base 10 of the ratio of the measured sound pressure to 20 micropascals) level recorded when using the A-weighting measurement of a sound level meter conforming to A.N.S.I. Type I or II standards. Noises related to livestock, emergency equipment, temporary maintenance, construction, and church bells are excluded from these limitations. The Board may approve reasonable waivers for traditional natural resource-based industries utilizing best management practices, such as sawmills and mineral extraction.
3. Hours of Operation The Board may set reasonable limits to hours of operation as a condition of permit approval; any such restrictions will be held to the minimum necessary to provide neighboring residents with adequate relief from any unavoidable adverse impacts caused by the development or activity, including traffic. Normal hours of operation shall be deemed to be 6am to 8:30pm (Monday-Saturday) and 8am-8:30pm Sunday, although variations from this standard may be approved by the Board if affected parties are agreeable.
4. Lighting Exterior lighting, signs and other advertising features shall not be placed so as to cause glare, block sunlight, or constitute a safety hazard for the public or neighboring properties. Emergency lighting shall be consistent with state and federal law. Lighting shall be limited to that required for safety and operational purposes, and shall be shielded from abutting properties, directed downward and incorporate full cut-off fixtures to minimize light pollution.
5. Buffer An existing or proposed vegetative, tree and shrub buffer shall be maintained along property lines of the development. The buffer area shall at a minimum consist of a strip of land no less than 15 feet in width. Each proposed development shall develop a road landscape plan for a strip of land measuring 15 feet in width along the road frontage of the lot. Existing or proposed vegetation including trees and shrubs shall be incorporated into the plan. Parking areas shall not be allowed in this area except for necessary access points.
6. Aesthetic Compatibility The proposed development will not have an undue adverse impact on the scenic or natural beauty of the area, aesthetics, historic sites, rare and irreplaceable natural areas, or any public rights for physical or visual access to the shoreline. Developments will be designed to preserve views of natural resources from public property to the greatest practical extent.
7. Storage Equipment, supplies, and other items to be stored outside a building shall be arranged in an attractive fashion or shielded from public view.

## F. PUBLIC HEALTH AND SAFETY STANDARDS

1. Sanitation: The proposed development will manage its facilities and activities to prevent either unsafe public health conditions or safety concerns.
2. Solid Waste: The proposed development has adequate provisions for managing solid waste, including complying with the town's recycling program and addressing food or other waste that could generate unhealthy conditions or pollution. Dumpsters and other waste storage areas will be shielded from public view.

## **SECTION 6. GENERAL PERMIT CONDITIONS**

The Board shall attach conditions as necessary to ensure that the intent of this Ordinance is met both during construction and for the life of the development. The following general conditions will be applied as applicable, along with others specific to the development.

- A. Businesses subject to a State operating license will not begin operations prior to obtaining that license and providing a copy to the CEO.
- B. All permit holders representing businesses that hold licenses from the State of Maine shall submit a copy of their license to the CEO within 14 calendar days of each renewal, including any conditions.
- C. Any businesses subject to water testing or health inspections shall share the results of each report with the CEO within 14 calendar days of receipt.
- D. Stormwater management, erosion control features and buffers shall be maintained through the life of the development. Any off-site runoff or nuisance determined to be caused by the development shall be considered a violation of this Ordinance.
- E. Any desired changes in plans that emerge prior to or during construction must be approved by the CEO prior to being implemented. If the CEO determines that the proposed changes are substantial, a Stop Work Order may be issued until the CEO receives direction from the Planning Board on whether the proposed changes are acceptable. Proceeding with development other than as approved by the Town shall constitute a violation of this Ordinance.

## **SECTION 7. SPECIFIC USE SUBMISSION REQUIREMENTS AND PERFORMANCE STANDARDS**

The following specific uses shall submit the additional appropriate application materials and address the applicable performance standards for the development.

### **A. RESTAURANTS, EVENT VENUES AND SIMILAR OPERATIONS**

#### **1. Additional Submittal Requirements**

##### **a. Permanent Event Venue Businesses**

- (1) Description of the type, frequency, and duration of events to be hosted or hours of operation
- (2) Volume of guests and vehicles to be accommodated
- (3) Event management plan, including qualifications and availability of on-site management personnel
- (4) How neighbors and/or public will be notified of upcoming events and how to contact management during events if any issues arise
- (5) Plans for food and beverage services, including alcohol

##### **b. Ancillary Facility Rentals (e.g. summer camps)**

- (1) Above information as applicable
- (2) Description of range and frequency of rentals
- (3) Rules applied to guests
- (4) How guests are managed and instructed in use of facilities and equipment (power boats, fire pits, emergency procedures)
- (5) Willingness to provide notification to town office of each rental event at least 14 calendar days prior with description of guests and responsible party contact info

#### **2. Additional Approval Criteria**

- a. Event venues will be compatible with existing neighborhood conditions
- b. Notification of facility rentals as an ancillary use will be provided to the town office at least 14 days prior to rental including event description, number of guests expected and responsible party contact information



## B. WATER EXTRACTION BUSINESSES

### 1. Additional Submission Requirements

- a. A statement of the quantity of groundwater anticipated to be extracted, expressed as an average daily, monthly, and annual total.
- b. A copy of all required state and federal permit applications, when filed. A copy of these applications will be submitted at least thirty (30) days prior to a public hearing being held by the Planning Board on the application. Any approval by the Board shall include a condition requiring compliance with all requirements of all required state and federal permits.
- c. An accurate map, drawn to a scale of one hundred (100) feet to an inch, showing the location of the springs, wells, or surface water intake locations from which the water will be drawn.
- d. When required by a ruling of the Planning Board, copies of all correspondence to and from the applicant and Maine State and United States agencies under whose jurisdiction a permit or license is required for the proposed activity.
- e. A written hydrogeological investigation report stamped by a Maine-Certified Geologist or Maine Registered Professional Engineer. The report shall be based on a hydrogeological investigation of sufficient detail to provide the following information:
  - (1) A map of the entire topographic drainage basin upgradient of the water extraction site(s) showing the basin boundaries, sub basin boundaries that may be of significance to the recharge of the water extraction site(s), and the location of the extraction site(s).
  - (2) Two (2) maps of the aquifer as specified below showing the spring(s), well(s), or excavation(s) from which water is to be extracted; and wetlands, and surface water bodies within two thousand (2,000) feet of the extraction site(s). These maps shall be at a scale of one hundred (100) feet to an inch and shall depict topographic contours at an interval of twenty (20) feet or less. The two (2) maps shall show the following information, respectively:
    - (a) Water Table contours under ambient conditions, and
    - (b) Water Table contours under actual pumping conditions at the completion of a five (5) day constant rate pumping test at a rate at or above that proposed for operation. These maps shall be based on Water Table elevation measurements from monitoring wells and surface water bodies in the vicinity of the extraction site(s) and must include estimated surface water elevations for more distant locations. Nothing in this paragraph shall require an applicant to include other than public information for land not owned by the applicant.
  - (3) A map showing the long-term zone of contribution to the extraction site(s) based on maximum proposed extraction rates, and a quantitative water budget analysis that includes precipitation input, evapotranspiration losses, surface water runoff, groundwater flux, and discharge-recharge relationships between surface water and groundwater.
  - (4) Two (2) scaled geologic cross-sections showing geologic characteristics of the aquifer and groundwater and surface water elevations at and adjacent to the water extraction site(s).
  - (5) Predictions of the effects of long-term water extraction on local and regional groundwater levels, wetlands; pond or lake levels; base flow in streams; and any water quality changes in groundwater and in surface water due to the proposed use.

- (6) The aquifer characteristics, including a detailed description of geologic materials, hydraulic conductivity and transmissivity, average daily, monthly, and annual extraction rates.
- f. Traffic
- (1) A statement of the estimated number (for the AM and PM peak hours) and loaded weight of all truck trips, including but not limited to empty and loaded vehicles transporting bulk or bottled water and packaging materials.
  - (2) A statement of the estimated number (for the AM and PM peak hours) of all non-truck trips.
  - (3) A statement of the hours during which vehicular traffic is expected and how traffic volume is anticipated to vary by time of day and season.
  - (4) A reasonable projection of all anticipated routes (Town and State) of all vehicles transporting bulk or bottled water.
  - (5) A copy of the Traffic Movement Permit application filed under *Chapter 305 of the Maine Department of Transportation Regulations (“Rules and Regulations Pertaining to Traffic Movement Permits”)*; such application shall include those studies and reports required under *Chapter 305* and prepared, certified, and sealed by a Maine traffic engineer, including those applicable requirements set forth in *Section 7 of Chapter 305*, as may be amended. Where *Chapter 305* provides discretion to the MDOT to waive submittal requirements, the Planning Board shall after, conferring with its traffic consultant, determine whether it will require the submittal.
- g. Noise A written statement of sound from routine operations, maintenance operations, and construction (both daytime and nighttime), expected to be generated by the proposed use, and an assessment of the anticipated noise levels at property lines measured in dB(A).
- h. Lighting A statement of the artificial lighting anticipated for the proposed use, and an assessment of the impact of lighting at property lines.
- i. Visual Impact Simulated photographs or reasonably precise simulated graphic depictions of the use from all abutting public ways and from all abutting properties containing residential homes.
- j. Additional Information Needed The Planning Board may require any other additional information, not otherwise specified, that it determines necessary for the review of a site plan review application for an Aquifer-Dependent Industry. Additional information may be requested by the Planning Board at any time during the permitting process but will not otherwise affect the completeness of an application.
2. Performance Standards
- a. The quantity of water to be taken from a groundwater source will not substantially lower the Water Table beyond the property lines, cause unreasonable impacts to groundwater flow patterns, or cause unreasonable ground subsidence beyond the property lines.
  - b. Any proposed use shall not cause unreasonable adverse diminution in water quality or quantity of the aquifer or surrounding surface/groundwater. This includes any impacts to the upwelling of a natural spring, groundwater source, aquifer recharge area, or wetlands.
  - c. Safe and healthful conditions shall be maintained at all times within and about the proposed use and structures.
  - d. The proposed use shall require preparation of a stormwater management plan prepared and stamped by a professional engineer registered in the State of Maine detailing both construction and long-term stormwater controls.

- e. The proposed extraction site shall be a minimum of five (5) acres in lot size and is not within the ground water recharge area of contribution of a community, non-transient public water supply, as defined under Maine Drinking Water Program rules, unless notice is given to the operator thereof and the Board has considered any information supplied by the operator and finds that no unreasonable adverse effect on a public water supply will result under current and expected future demands on such community, non-transient public water supply.
- f. Nothing in this procedure, and no decision by the Planning Board, shall be deemed to create groundwater rights other than those rights which the applicant may have under Maine law.

3. Approval Criteria

The Board will approve the application if all standards within this Ordinance are met with any conditions applied as necessary.

4. General Conditions, Monitoring and Enforcement

- a. Any permit issued by the Planning Board shall state the maximum daily, monthly, and annual quantity of groundwater that may be extracted, which shall not exceed the amount specified in the application. The maximum daily, monthly, and annual ground water extraction limit shall be an amount determined by the Planning Board to be consistent with the performance standards provided in this Section, based on the evidence presented at the Planning Board's public hearing.
- b. The permittee will be required to maintain records of the actual volume of water extracted from, stored upon, and removed from the site. These data, together with water quality testing data, shall be submitted no less than every six months to the CEO, and otherwise made available upon request. Any unexpected reductions in extraction rates due to aquifer supply shall be reported to the CEO within 7 days of occurrence, accompanied by the permittee's analysis of what is taking place and the operations plan to address the supply issue. If the CEO feels that a peer review is needed to adequately protect groundwater resources, the same process will be used as during the application process to secure professional services with the cost borne by the permittee.
- c. The Town reserves the right to order that extraction operations cease while a determination is made regarding groundwater impacts and to amend the permit to a lower allowed extraction level that is expected to be sustainable.

C. WIRELESS COMMUNICATION FACILITIES (CELL TOWERS)

1. Applicability

This Section shall apply to all development of wireless telecommunication facilities. All new or expanded wireless telecommunication facilities shall be subject to review as per the requirements of this Ordinance. An expansion which consists only of the addition of antennae within previously approved co-location pads shall not require a formal review process and shall be approved by the Code Enforcement Officer.

2. Additional Submittal Requirements

- a. Name of the owner or operator of the wireless telecommunication facility and the proposed tenants.
- b. Date the wireless telecommunication facility is proposed to be constructed.
- c. A description and construction detail of the wireless telecommunication facility including a plan identifying the location of the tower and other structures on the property in relation to existing structures on the subject or neighboring property; dimensions of the tower, and location of structural supports if any. The plan shall also identify any accessory structures that are essential to operation of the telecommunication facility.

- d. Certification that construction of the structure will meet industry standards and complies with all federal, state and local building codes and other applicable regulations.
- e. Provide documentation of FCC approval and license.
- f. Provide documentation of FAA approval if applicable.
- g. Redundant towers shall submit evidence demonstrating that no existing site or structure can accommodate the applicant's proposed facility due to insufficient location, height, structural capacity, access or affordability.
- h. A Decommissioning Plan, including a description of the trigger for implementing the decommissioning plan (including Abandonment below). The Plan will contain:
  - (1) A description of the work required to physically remove the tower and associated foundations, buildings, cabling, electrical components, and any other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing, and the request is approved by the Town.
  - (2) Acknowledgement that the Code Enforcement Officer shall be notified at least 30 days prior to start of decommissioning.
  - (3) An estimate of the total cost of decommissioning less salvage value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. This cost estimate must be updated every three (3) years.
  - (4) Demonstration in the form of a performance bond (with the Town named as an additional insured), surety bond, irrevocable letter of credit, or other form of financial assurance as may be acceptable to the Town of Fayette's Risk Management Insurer that upon decommissioning the Applicant will have the necessary financial assurance in place for 150% of the total cost of decommissioning, less salvage value. The financial assurance shall include a provision granting the Town the ability to access the funds and property and to perform the decommissioning if the communications facility is abandoned or the Applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the agreement and/or approved by the Planning Board.

### 3. Performance Standards

- a. Habitat Impact No wireless telecommunication facility shall be located so as to create a significant threat to the health or survival of rare, threatened, or endangered plant or animal species.
- b. Fencing A wireless telecommunication facility must be fenced to discourage trespass.
- c. Visual Impact A wireless telecommunication facility must be constructed of materials and/or colors that blend with the surrounding natural or man-made environment to the maximum extent possible. The facility must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment.
- d. Co-location A new wireless telecommunication facility and related equipment must be designed and constructed to accommodate future expansions for future collocation of at least 3 additional wireless telecommunication devices or providers subject to the height limitation posed by tower design.
- e. Lighting A new wireless telecommunication facility must be illuminated only as necessary to comply with the FAA or other applicable state and requirements.

Security lighting may be installed as long as it is shielded to retain light within boundaries of the site to the maximum extent possible.

- f. Screening and Landscaping The facility and related equipment must be screened from view to a reasonable extent. Tower facilities shall be landscaped with a buffer of plant material that effectively screens the view of the tower compound. In sensitive locations, the buffer shall include evergreen trees that will reach a height of at least 25 feet in a period of 10 years. The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the compound. In locations where visual impact of the tower would be minimal, the landscape requirements may be reduced or waived altogether. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers on large, wooded lots, natural growth around the property perimeter may be sufficient barrier.
  - g. Setback All wireless telecommunication facilities shall be set back a minimum of 105 percent of the antenna height from all residential buildings and from any structures on neighboring property.
4. Performance Guarantee An applicant for a permit under this Section shall post a performance guarantee with the town prior to obtaining a permit that is equal to 125% of the cost of removing the structure. The performance guarantee covering such removal shall be for a minimum term of 5 years. It must contain a mechanism, satisfactory to the town, for review of the cost of removal every 5 years, and a mechanism for increasing the amount of the guarantee should the revised cost estimate show it necessary.
  5. Abandonment
    - a. A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.
    - b. If the Owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.
    - c. If surety has been given to the municipality for removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.
  6. Additional Conditions of Approval In addition to complying with the above performance standards and Development Permit Standard Conditions, the following standard conditions of approval shall be a part of any approval or conditional approval issued by the CEO or Planning Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board may impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan and shall include the following statement or its equivalent:

The owner of the wireless telecommunications facility and their successors and assigns agree to:

    - a. Respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response
    - b. Negotiate in good faith for shared use of the wireless telecommunications facility by third parties

- c. Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation
- d. Require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.
- e. Upon request by the Town, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

D. UTILITY SCALE SOLAR FACILITIES

1. Applicability No Utility Scale Solar Energy Facility shall be located within the Town of Fayette without a Permit issued by the Planning Board. Any physical expansion, reconfiguration, or increase in the Rated Nameplate Capacity of an existing Solar Energy Facility shall also require Planning Board approval. Routine maintenance or replacements do not require a permit. All USSF's must also meet all federal and state electrical codes and permitting requirements.
2. Specific Submittal Requirements In addition to any Development Submittal Requirements that are not waived, an application for a USSF Permit must also include the following:
  - a. An additional permit / technical review fee schedule to be set by the Select Board shall be payable at the time of application.
  - b. A description of the owner of the facility, the operator if different, and detail of qualifications and track record to run the USSF.
  - c. If the operator will be leasing the land, a copy of the agreement (minus financial compensation) clearly outlining the relationship inclusive of the rights and responsibilities of the operator, landowner, and any other responsible party regarding the USSF and the life of the agreement.
  - d. A description of the expected wattage to be produced and to whom it will be sold.
  - e. A copy of the agreement and schematic details of the connection arrangement with the transmission facility, clearly indicating which party is responsible for various requirements and how they will be operated and maintained.
  - f. A description of the panels to be installed, including make and model, and associated major facility components.
  - g. A construction plan and timeline, identifying known contractors, site control, and anticipated on-line date.
  - h. A full official land survey of the proposed site. Must include any rights of way and easements on the property and be sealed and/or stamped by a Maine licensed professional surveyor.
  - i. A survey of critical wildlife habitat is provided at the time of application, if a project is located in an area determined to be essential habitat, as defined by the Maine Department of Inland Fisheries and Wildlife, an IF&W recommendation shall be secured before a Planning Board ruling.
  - j. A soil analysis of at least medium intensity, identifying at a minimum prime and regionally significant farmland, hydric, and highly erodible soils.

- k. An operations and maintenance plan, including:
  - (1) Site control and the projected operating life of the facility
  - (2) A plan prioritizing the ability to co-mingle agricultural and energy generation land uses including but not limited to: apiaries, grazing or handpicked crops.
  - (3) A plan that provides habitat for native plants and animals and native pollinators
  - (4) A topsoil management plan.
- l. An emergency management plan for all anticipated hazards.
- m. Documentation that the solar generation equipment has been approved under the UL certification program and that the system complies with all applicable local, state, and federal codes/regulations with the standards regarding signal interference. Electrical component and connection information shall be in sufficient detail to allow for a determination that it meets state electrical codes.
- n. Acknowledgement that an annual (per fiscal year) inspection shall be performed by a third-party engineer at the facility operator's expense. Documentation of such inspection and compliance with maintenance plan shall be provided to the Town by October 1 of each year and will include average annual production of prior year.
- o. Proof of financial capacity to construct and operate the proposed USSF, including current and future sources of funding.
- p. An analysis to determine potential visual effect of the USSF must be undertaken. In all visual impact assessments, scenic resources within the viewshed of the proposed activity must be identified and the existing surrounding landscape must be described. The assessment must be completed following standard professional practices to illustrate the proposed change to the visual environment and the effectiveness of any proposed mitigation measures. A visual impact assessment must also include narratives to describe the significance of any potential impacts, the level of use and viewer expectations, measures taken to avoid and minimize visual impacts, and steps that have been incorporated into the activity design that may mitigate any potential adverse visual impacts to scenic resources.

The Visual Impact Assessment must include the following elements:

- (1) A visual and cartographic analysis (Viewshed Analysis) A geographical representation of all the areas of where the USSF, from its highest points is visible from the surrounding (impact) area shall be presented. The radius of the impact area to be analyzed must be based on the relative size and scope of the proposed activity given the specific location. Areas of the impact area from which the activity will be visible, including representative and worst-case viewpoints, must be identified. Line-of-sight profiles constitute the simplest acceptable method of illustrating the potential visual impact of the proposed activity from viewpoints within the context of its viewshed. A line-of-sight profile represents the path, real or imagined, that the eye follows from a specific point to another point when viewing the landscape.
- (2) Site inventory and photographic review This shall provide a comprehensive and objective means by which to analyze and assess the potential visual and aesthetic impacts that may result from the USSF and its associated elements.
- (3) Visual Simulations Visual simulations will be provided to show a photo-realistic perspective view of proposed USSF elements in the landscape, thereby allowing abutters to clearly visualize how a project will really look from their primary residential structure. The visual impact assessment must be prepared by a design professional trained in visual assessment procedures, or as otherwise directed by the Planning Board.

q. A Decommissioning Plan, including:

- (1) A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is generated for a continuous period of 12 months. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of 12 months, the project has not been abandoned and shall not be decommissioned.
- (2) A description of the work required to physically remove all solar panels, associated foundations, buildings, cabling, electrical components, and any other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing, and the request is approved by the Town. [Note: At the time of decommissioning, the Applicant must provide evidence of plans for continued beneficial use of any or all of the components of the Solar Energy Facility. Any changes to the approved decommissioning plan shall be subject to review and approval by the Planning Board.]
- (3) Acknowledgement that the Code Enforcement Officer shall be notified at least 30 days prior to start of decommissioning.
- (4) An estimate of the total cost of decommissioning less salvage value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs must include, but is not limited to, the cost of the following activities: panel removal, panel foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization, and road infrastructure removal and permanent stabilization. This cost estimate must be updated every three (3) years.
- (5) Demonstration in the form of a performance bond (with the Town named as an additional insured), surety bond, irrevocable letter of credit, or other form of financial assurance as may be acceptable to the Town of Fayette's Risk Management Insurer that upon decommissioning the Applicant will have the necessary financial assurance in place for 150% of the total cost of decommissioning, less salvage value. The financial assurance shall include a provision granting the Town the ability to access the funds and property and to perform the decommissioning if the USSF is abandoned or the Applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the agreement and/or approved by the Planning Board.
- (6) All components of *35-A M.R.S. Chapter 34-D §3491-3496 (Solar Energy Development Decommissioning)* not addressed in this ordinance shall apply.

3. Standards for Approval

In addition to the requirements of all land uses and developments, the following standards must also be met:

- a. Siting of the overall facility and individual panels shall keep with the existing contours of the land.
- b. Only pile driven, or ballast block footing shall be used so as to minimize the disturbance of soils during installation.
- c. To the extent possible, infrastructure shall not be located on steep slopes.
- d. No more than 3 acres (130,680 square feet) of forested land shall be clear cut for this purpose.



- e. Structures (including fencing) that are part of a USSF shall be setback a minimum of 250 feet from any existing residential dwelling structure.
- f. The USSF shall be no more than 15 feet high at its tallest point of any equipment.
- g. No USSF shall be installed until evidence has been given to the Planning Board that the applicant has an agreement with the local utility to accept the power.
- h. The Planning Board may require that a USSF be enclosed by fencing to prevent unauthorized access and may also require landscaping to avoid adverse aesthetic impacts of installed fencing to adjacent properties.
- i. Signage shall be required to identify the owner of the USSF and provide a 24-hour emergency contact phone number. This signage shall not be used for advertising except for reasonable identification of the manufacturer or operator of the USSF. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the USSF, informing individuals of potential voltage hazards, including stating the output of power (AC or DC). Signage indicating the official e911 address of the Facility shall also be required to clearly be visible, from both directions of travel, from the public road or roads from which the USSF is accessed.
- j. Any USSF shall not have any significant detrimental effect on the scenic resources of the town or significantly degrade the scenic value from properties in the area. In order determine the visual impact of any USSF, the Planning Board will, using the information provided in the Visual Impact Assessment study (See above), consider the following:
  - (1) The significance of the potentially affected scenic resources.
  - (2) The existing character of the surrounding area.
  - (3) The expectations of the typical viewer.
  - (4) The project purpose and the context of the proposed activity.
  - (5) The extent, nature, and duration of the potential effect of the USSF's presence on the public's continued use and enjoyment of the town's scenic resources.
  - (6) The Planning Board must find that the Applicant has the capacity to finance, safely operate and decommission the USSF.

4. Additional Permit Conditions

- a. Legal Responsibilities The Applicant must provide proof of authorization to construct, use, and maintain the property and any access drive for the life of the USSF and including the decommissioning of the USSF. The roles and responsibilities of the facility owner, operator, landowner, and any other party involved in the project must be clear and meet the satisfaction of the Planning Board that the public interest is protected.
- b. Transfer of ownership Upon a transfer of ownership of a solar energy development subject to a decommissioning plan approved under this ordinance, a person that transfers ownership of the development remains jointly and severally liable for implementation of the plan until the Planning Board approves transfer of the decommissioning plan to the new owner or operator. The Town shall be notified of the transfer, and provided with the new owner's contact information, proof of bonding, and environmental quality analysis, no later than 60 days of the recorded transfer. All other provisions of this ordinance may be enforced at the Planning Board's discretion.
- c. Emergency Services The USSF owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Town of Fayette Fire Chief. Upon request, the owner or operator shall coordinate with local emergency services in developing an emergency response plan. A "3200 Series KNOX-BOX," or approved equivalent, shall be provided and installed by the operator to be used to allow emergency service personnel continuous access. All means of shutting down the USSF shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation. Access roads to the USSF shall be of sufficient quality and dimensions to

satisfy the Town of Fayette Fire Chief that any emergency response vehicles be able to easily and safely gain access to and around the site.

- d. Maintenance Conditions The USSF owner or operator shall maintain the USSF and all associated fencing and landscaping elements in good functional condition. A maintenance plan shall be submitted and include, but not be limited to, topsoil maintenance, painting, structural repairs, and integrity of security and visual barrier measures. The USSF must be properly maintained and be kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare. Site access shall be maintained to a level acceptable to the Town of Fayette Fire Chief for emergency response. The owner or operator shall be responsible for the cost of maintaining the USSF and any access roads.
- e. Modifications Any material modifications to a USSF made after issuance of the required Town permit(s) shall require approval by the Code Enforcement Officer and/or the Planning Board.



## ARTICLE X. SUBDIVISION REVIEW

### SECTION 1. PURPOSE

The purpose of this Article is to provide a process by which applications for subdivision approval will both comply with *30-A M.R.S. §4401* and the standards of this Ordinance. It provides for more creative lot layouts and flexibility on dimensional requirements than allowed for single lot development if in the public interest. It also provides for specific dimensional and performance standards for mobile home parks.

### SECTION 2. APPLICABILITY

The provisions of this Article shall apply to all development considered to be a subdivision as defined by *30-A M.R.S. §4401* and this Ordinance.

### SECTION 3. REVIEW CRITERIA

The Planning Board shall consider the following criteria and, before granting approval, must determine that:

- A. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
  1. The elevation of the land above sea level and its relation to the floodplain,
  2. The nature of the soils and subsoils and their ability to adequately support waste disposal,
  3. The slope of the land and its effect upon effluents, and,
  4. The applicable state and local health and water resources rules and regulations.
- B. The proposed subdivision has sufficient water available for the reasonable needs of the subdivision.
- C. The proposed subdivision will not cause an unreasonable burden on an existing municipal or private water supply, if one is to be used.
- D. The proposed subdivision will not cause unreasonable soil erosion, unmitigated stormwater runoff, or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
- E. The proposed subdivision will not cause unreasonable public road congestion or unsafe intersections or other conditions with respect to the use of the public roads existing or proposed.
- F. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are used.
- G. The proposed subdivision will not cause an unreasonable burden on the town's ability to dispose of solid waste, if Town services are used.
- H. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, archeological sites, significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the Town, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
- I. The proposed subdivision conforms to all the applicable standards and requirements of this Ordinance, and other local ordinances. In making this determination, the Planning Board will have the right to final interpretation of these ordinances.
- J. The subdivider has adequate financial and technical capacity to meet all the Review Criteria and the standards and requirements contained in this Ordinance.
- K. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in *38 M.R.S. Chapter 3, Subchapter 1, Article 2-B*, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water. To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if the lot lines extend to the shore.

- L. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- M. Based on Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant, if the subdivision, or any part of it, is in a flood-prone area, the sub-divider shall determine the 100-year flood elevation and flood hazard boundary within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with the lowest floor, including the basement, at least one foot above the 100-year flood elevation.
- N. All wetlands within the proposed subdivision have been identified and delineated on any maps submitted as part of the application, regardless of the size of these wetlands. All wetlands shall be preserved to the greatest extent practicable.
- O. Any river, stream, or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. All rivers, streams or brooks shall be protected from any adverse development impacts.
- P. The proposed subdivision will provide for adequate stormwater management.
- Q. The cumulative effects of the proposed subdivision will not increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

**SECTION 4. ADMINISTRATION AND GENERAL PROCEDURES**

**A. ADMINISTRATION**

- 1. The Planning Board shall administer this Ordinance and review all subdivision applications according to the applicable review criteria and standards.
- 2. The Planning Board shall provide the Code Enforcement Officer a copy of its decision on a subdivision application including all application materials.

**B. DECISIONS**

- 1. The Planning Board shall determine if the subdivision application is complete before it schedules a public hearing and begins a review of the application.
- 2. After review of a complete application, the Planning Board shall determine if the application meets the Review Criteria contained in Section 3 of this Ordinance. The Planning Board shall make a written finding of fact to support its decision and vote to approve the application, deny the application, or approve the application with conditions.
- 3. If, in its findings, the Planning Board determines that the application may not meet the review criteria, and that additional actions by the applicant will be sufficient to meet them, it may require such actions as conditions of approval. The conditions may set forth requirements in addition to those set forth in the Ordinance only when the Planning Board finds it necessary to further the purposes of this Ordinance. All conditions approved by the Planning Board shall be listed along with the reasons for these conditions in the Planning Board's decision and on the final subdivision plan.
- 4. The Planning Board shall list any waivers approved by the Board in its decision and on the final subdivision plan, and the reasons for such approval.

**C. BURDEN OF PROOF**

The applicant shall have the burden of proof to show the proposed subdivision application meets the applicable review criteria and standards contained in this Ordinance.

**D. ADDITIONAL STUDIES**

As provided in Article II, the Planning Board may require the applicant to perform additional studies or hire a consultant to review the entire or portions of the subdivision application. Any additional costs incurred are the responsibility of the applicant.

#### E. RIGHTS NOT VESTED

The submittal of a sketch plan or a preliminary plan to the Planning Board to review for a complete application shall not be considered the initiation of the review process for the purposes of bringing the application under the protection of *1 M.R.S. §302*. The formal review process shall begin upon written notification to the applicant that a complete application has been received.

#### F. SITE INSPECTION

1. The Planning Board may vote to schedule an on-site inspection of the proposed project. The Planning Board shall schedule the date and time of the site inspection at the sketch plan meeting or at another time. The Planning Board shall post the date, time, and place of the site inspection at the Town Office.
2. The purpose of the site inspection is for the Planning Board to obtain knowledge about the site and surrounding area. The Planning Board shall not discuss the merits of the application or render any decision concerning the application during the site inspection.

#### G. WAIVERS

1. The Planning Board may vote to waive any of the review criteria and/or ordinance performance standards when it finds one of the following:
  - a. One or more of the review criteria and /or Ordinance performance standards are not applicable to the proposal due to the size of the project, circumstances of the site, design of the project, or unique features of the proposal.
  - b. The applicant has proposed an alternative design that meets or exceeds the requirements set forth in the performance standards.
2. The applicant shall submit information and materials that support the waiver request with the application.
3. The Planning Board may only consider a waiver request when the applicant has submitted a written waiver request in the application. The first item of the application review shall be a consideration of any waiver request. The Planning Board shall review the request and if it meets the criteria for a waiver, shall approve the request. If the Planning Board finds that the request does not meet the waiver criteria, the Board shall deny the request. The applicant shall amend the application as required if the waiver is not approved by the Board. The Planning Board may vote to suspend review of the application until such time that the applicant provides any information necessary as a result of not obtaining the waiver. In no case shall the Planning Board make a final decision upon the application until the applicant supplies any additional information to the satisfaction of the Board.

#### H. SUBDIVISION REVIEW PROCESS

1. All subdivision applicants shall be required to follow a three-tier review process as follows:
  - a. Sketch Plan Review
  - b. Preliminary Plan Review
  - c. Final Plan Review
2. The Planning Board may vote to allow Minor Subdivisions to submit a final plan for review directly after the Sketch Plan Review meeting. The Planning Board shall make this decision after reviewing the sketch plan proposal.
3. The Planning Board shall hold a public hearing to review the final plan application for a Minor Subdivision.

#### I. REVISIONS TO APPROVED PLANS

1. An application for a revision to a previously approved plan shall be submitted to the Planning Board at least fourteen days prior to a scheduled meeting of the Planning Board. If the revision involves a modification to a condition imposed by the Planning Board; the addition of additional units; the addition of new lots; or an expansion of the subdivision, then the procedure for a new

application shall be followed. If the revision only involves minor modifications to the plan, the Planning Board may consider the request at the meeting. The Planning Board may vote to hold a public hearing on the proposed revision.

2. The Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be revised or that are adversely impacted by the proposed revision.
3. The applicant shall submit a copy of the approved plans and seven (7) copies of the revised portions of the plans. The application shall include enough supporting data to allow the Planning Board to make a decision that the proposed revision meets the review criteria.
4. The Planning Board shall vote to approve the revision, deny the revision, or approve the revision with conditions. The Planning Board may vote to require that additional information be submitted in order to ensure that the review criteria are met.

#### J. AS BUILT-PLANS

Upon completion of all the public improvements contained in the subdivision, the applicant shall submit a copy of as-built plans to the Planning Board. This requirement does not apply to minor subdivisions.

#### K. APPEALS TO SUPERIOR COURT

An aggrieved party may appeal any final decision of the Planning Board under this Ordinance to Superior Court, within thirty (30) days of the date the Planning Board issues a written order of its decision.

#### L. PUBLIC HEARING REQUIREMENTS

1. The Planning Board shall hold a public hearing on all preliminary plan applications. The Planning Board may vote to hold a public hearing on a final application.
2. The Planning Board may vote to continue the public hearing in order to receive additional public comment or information concerning the application. The Board is not required to meet notice requirements for the continued public hearing.

#### M. JOINT MEETINGS

If any portion of a proposed subdivision crosses municipal boundaries, the Planning Board shall follow the notice, meeting, and review requirements specified in *30-A M.R.S. §§4401- 4407*.

#### N. PERFORMANCE GUARANTEE

1. A performance guarantee shall be required for all public improvements proposed for the subdivision. The applicant shall submit a proposal for the performance guarantee at the time of submission of the Final Plan.
2. The performance guarantee may include one of the following:
  - a. A certified check, in an amount equal to the expense of installing the public improvements, made payable to the Town
  - b. A performance bond, of an amount equal to the expense of installing the public improvements, made payable to the Town, issued by a surety company
  - c. A conditional agreement with the Town, whereby no lot in the subdivision may be sold and no building permit issued until the applicant installs all public improvements
3. The Planning Board, prior to approval of the final plan, shall consult with the Select Board on the terms proposed by the applicant for the performance guarantee. The Select Board may recommend that the amount of the certified check or performance bond or the terms of the performance guarantees be amended or revised. The Planning Board shall consider the recommendation of the Select Board and decide on the contents of the performance guarantee.
4. Prior to the release of the performance guarantee, the Planning Board shall determine that the proposed improvements meet or exceed the design and construction requirements specified in

this ordinance and the subdivision plans. The Planning Board shall base its decision upon the inspection reports filed by the Code Enforcement Officer, other Municipal Officials or other designated inspector.

5. Submittal of the as-built subdivision plans is a requirement for the release of the performance guarantee.
6. If, the Planning Board, Code Enforcement Officer, or other designated inspection official finds that any of the public improvements have not been constructed in accordance with the plans and specifications filed as part of the application, they shall report this condition to the Select Board. The Select Board shall take any steps necessary to preserve the Town's rights.

#### O. INSPECTION REQUIREMENTS

1. The Code Enforcement Officer shall be responsible for conducting and/or coordinating all inspections with other municipal officials. The following municipal officials shall perform the following inspections:
  - a. The Road Commissioner shall inspect all roads, including roads to be considered for public acceptance and private roads and associated drainage systems. All roads proposed for public acceptance shall also be inspected by a professional engineer as per Article VI, Section 10 of this Ordinance.
  - b. The Local Plumbing Inspector shall inspect the installation of all subsurface wastewater treatment systems.
  - c. The Code Enforcement Officer shall inspect all erosion control measures, stormwater management features, and all other site features.
2. The applicant shall be responsible for scheduling all inspections with the Code Enforcement Officer. The Code Enforcement Officer and all other inspection officials shall keep a record of all inspections and all deficiencies. It shall be the responsibility of the Code Enforcement Officer to notify the applicant in writing that a deficiency exists and the steps necessary to remedy the situation. The Code Enforcement Officer shall notify the Planning Board and the Select Board whenever the applicant fails to remedy a deficiency. Upon completion of the subdivision and/or consideration of release of the performance guarantee, all inspection reports shall be made available to the Planning Board and the Select Board.

### **SECTION 5. SKETCH PLAN REVIEW**

#### A. PURPOSE

The purpose of the sketch plan submittal is for the applicant to present general information regarding the proposed subdivision to the Planning Board and to receive the Planning Board's comments prior to the expenditure of substantial sums of money for developing the subdivision plan.

#### B. PROCEDURE

1. The applicant shall submit ten (10) copies of a complete sketch plan application to the Planning Board at least seven (7) days before a scheduled meeting of the Planning Board.
2. The applicant shall present the sketch plan application to the Planning Board and make a verbal presentation regarding the site and the proposed subdivision.
3. Following the applicant's presentation, the Planning Board may ask questions and make suggestions to be incorporated by the applicant into the application.
4. The Planning Board shall determine the contour intervals to be shown on the plan.
5. The Planning Board shall decide if the proposed subdivision meets the definition of a minor subdivision and if the applicant may submit a final plan for consideration.



## C. SUBMISSIONS

1. The sketch plan shall show in simple sketch form the proposed layout of roads, lots, buildings, and other features in relation to existing site conditions. The sketch plan does not have to be an engineered plan and may be a free-handed penciled sketch.
2. The sketch plan shall be submitted on the application forms provided by the Code Enforcement Officer and shall include the following:
  - a. A copy of the Tax Assessors map of the site and surrounding area
  - b. A copy of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision
  - c. A copy of the County Soil Survey showing the area of the proposed subdivision
  - d. A map showing the watershed in which the subdivision is located

## SECTION 6. PRELIMINARY PLAN REVIEW

### A. PROCEDURE

1. The applicant shall, at least fourteen (14) days prior to a scheduled meeting of the Planning Board, submit a complete preliminary plan application to the Code Enforcement Officer. The applicant shall be issued a dated receipt, and the preliminary plan application shall be placed on the Planning Board's agenda in order to review for a complete application.
2. The application shall consist of ten (10) complete copies. Maps and related attachments larger than ledger sized paper (11"x17") shall be reduced to four (4) copies. The Planning Board shall receive two (2) copies and one shall be placed in the Town Office for public review.
3. As soon as possible, after the receipt of the preliminary plan the Town shall notify by first class mail all abutters to the proposed subdivision that an application for a subdivision has been submitted to the Planning Board, specifying the location of the proposed subdivision and including a general description of the project. The notice shall also indicate that a copy of the application is available for public review at the Town Office. The Planning Board shall maintain a list of all abutters notified by first class mail, specifying the date the notice was mailed.
4. Within thirty (30) days of the receipt of the preliminary plan application, the Planning Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the board shall notify the applicant of the specific material needed to complete the application.
5. The Planning Board shall hold a public hearing within thirty (30) days of determining that it has received a complete application.
6. Within thirty (30) days of the public hearing, or within another time period as may be mutually agreed to by the Board and the applicant, the Planning Board shall make a decision on the application.
7. Upon approval of the preliminary plan, the applicant is eligible to submit a final plan to the Planning Board for consideration. The approval of the preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to preparation of the final plan. The final plan shall be submitted for consideration upon fulfillment of the requirements of this Ordinance and conditions of preliminary approval, if any.

### B. PRELIMINARY PLAN SUBMISSIONS

1. The applicant is responsible for supplying all the necessary information to show that the proposed subdivision complies with the review criteria, requirements, and performance standards contained in this Ordinance. The preliminary plan submissions shall consist of the

following:

- a. A receipt from the Town indicating that the application fee has been paid
- b. A preliminary plan application form and all required attachments and maps
- c. Waiver request form, if applicable
- d. A location map, drawn at an appropriate scale to show the relationship of the proposed subdivision to adjacent properties. The map shall show the following:
  - (1) Existing subdivisions in the proximity of the proposed subdivision
  - (2) Locations and names of existing and proposed roads
  - (3) Boundaries and designations of all shoreland zoning and other land use districts
  - (4) An outline of the proposed subdivision and any remaining portion of the owner's property if not included in the subdivision proposal
- e. The following general information:
  - (1) Name and address of the applicant and applicant's agent
  - (2) Verification of right, title or interest in the property
  - (3) A copy of the most recently recorded deed for the parcel
  - (4) A copy of all existing and proposed deed restrictions, rights-of-way, or other encumbrances affecting the property
  - (5) The book and page and Map and lot information of the property
  - (6) The names of all property owners abutting the property
  - (7) Acreage of the proposed subdivision and acreage of any land not included in the subdivision to be retained by the owner
- f. A subdivision plan consisting of one or more maps drawn to a scale of not more than 100 feet to the inch. The plan shall show the following:
  - (1) Name of the subdivision
  - (2) Number of lots
  - (3) Date, north point, graphic scale
  - (4) Proposed lot lines with dimensions
  - (5) A survey of the perimeter of the tract, giving complete descriptive data by bearing and distances, made and certified by a Registered Land Surveyor. The corner of the tract shall be located on the ground and marked by permanent markers. The plan shall indicate the type of permanent marker proposed to be set or found at each lot corner.
  - (6) Contour intervals as specified by the Planning Board
  - (7) The location of all wetlands regardless of size
  - (8) The location of all rivers, streams, brooks and ponds within or adjacent to the subdivision
  - (9) The location of all slopes in excess of 20% slope
  - (10) The number of acres within the subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing features
  - (11) The location of any significant sand and gravel aquifers
  - (12) The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on most recent Flood Insurance Rate Map
  - (13) The boundaries of all land use districts
  - (14) The location and boundaries of any significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or locally known, including all vernal pools

- (15) The location of any site or structure listed on the National Register of Historic Places or any archeological site identified by the State Historic Preservation Commission
- (16) The location of all scenic areas and rare and endangered plants as identified in the Town's Comprehensive Plan
- (17) The location of all subsurface wastewater disposal system test pits/test borings and test data and appropriate documentation
- (18) The location of all existing and proposed wells and appropriate documentation
- (19) All temporary and permanent erosion control features proposed for the site
- (20) All stormwater control hydrology and mitigation design features proposed for the site.
- (21) All parcels of land proposed to be owned or held in common or joint ownership by the subdivision or individual lot owners. All land proposed to be offered for public acceptance to the Town.
- (22) Phosphorus control measures
- (23) Road plans and specifications and appropriate documentation
- (24) Traffic access data for the site including an estimate of the amount of vehicular traffic to be generated on a daily basis
- (25) The type and location of any proposed fire control features, and appropriate documentation
- (26) A list of all proposed deed covenants and restrictions on the plan
- g. A statement indicating how the solid waste from the subdivision will be handled
- h. Documentation indicating that the applicant has the financial and technical capacity to meet the requirements of this Ordinance, and
- i. Any other data necessary in order to meet the requirements of this Ordinance.

## **SECTION 7. FINAL PLAN REVIEW**

### **A. PROCEDURE**

1. The applicant shall, at least fourteen (14) days prior to a scheduled meeting of the Planning Board, submit a complete final plan application to the Code Enforcement Officer. The applicant shall be issued a dated receipt and the final plan application shall be placed on the Planning Board's agenda in order to review for a complete application.
2. The application shall consist of four (4) paper copies. The Planning Board shall receive two (2) original paper copies. One paper copy shall be placed in the Town Office for public review.
3. Within thirty (30) days of the receipt of the final plan application, the Planning Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific material needed to complete the application.
4. The Planning Board may decide to hold a public hearing on the proposed final plan. The Planning Board shall schedule a public hearing or a meeting to review the final plan within thirty (30) days of determining that it has received a complete application.
5. Within thirty (30) days of the public hearing or meeting, or within another time period as may be mutually agreed to by the Board and the applicant, the Planning Board shall make a decision on the application.
6. Upon voting to approve the final plan, the Planning Board shall sign two (2) copies of the Final Plan. The Planning Board shall retain one copy and the other shall be provided to the applicant. The applicant shall file the approved Final Subdivision Plan with the Kennebec County Registry of Deeds, within ninety (90) days of the date upon which the plan is approved. Failure to file the plan with the Registry of Deeds, within ninety (90) days, shall make the plan null and void. Final

Plans not filed in the appropriate time period shall be re-submitted to the Board according to the requirements of Section 7 of this Ordinance.

#### B. FINAL PLAN SUBMISSIONS

The applicant is responsible for supplying all the necessary information to show that the proposed subdivision is in compliance with the review criteria and requirements and performance standards contained in this Ordinance. The final plan submissions shall consist of the following:

1. A receipt from the Town indicating that the application has been paid
2. A final plan application form and all required attachments and maps
3. All the submission materials required for a preliminary plan
4. All conditions and modifications approved by the Planning Board for the preliminary plan shall be contained on the final plan.
5. All waivers approved by the Planning Board shall be shown on the final plan.
6. All additional studies and/or materials required by the Planning Board, as applicable
7. A signature block shall be provided on the final plan.
8. A performance guarantee, if applicable
9. The location and type of all permanent markers set at all lot corners
10. If the subdivision contains any private roads, the plan shall contain a statement as follows or its equivalent: "The subdivision roads are designed as private roads and are not eligible for acceptance by the Town of Fayette, unless the road is improved to meet the appropriate standards for road acceptance and the road is accepted by town vote."
11. Written copies of any documents of land dedication, and written evidence that the Select Board is satisfied with the legal sufficiency of any documents accomplishing such land dedication, and
12. Any conditions placed on the final plan by the Planning Board shall be clearly listed on the plan. Planning Board imposed conditions shall be listed separately from any conditions or restrictions placed on the subdivision by the applicant.

### **SECTION 8. PERFORMANCE STANDARDS**

#### A. APPLICABILITY

The performance standards contained in this Section shall apply to all subdivision proposals in the Town of Fayette.

#### B. GENERAL LOT AND DENSITY REQUIREMENTS

1. Unless a condominium or cluster development, which are encouraged to make more efficient use of land, individual lots shall meet the minimum dimensional requirements in Article IV, Section 4.
2. In calculating the total number of lots or units allowed within the subdivision, the maximum density will be calculated by taking the total land area and subtracting the following: all water bodies, wetlands, stormwater drainage features, slopes in excess of 20%, floodways, utility fixtures such as substations, and areas within public and private rights-of-way. The remaining acreage will be the basis for determining how many total dwelling units may be allowed, according to the Minimum Land Area Per Dwelling Unit in the applicable Land Use District (see Article IV, Section 4).
3. While lot sizes and configurations may be flexible in a condominium or cluster development, a maximum of two (2) dwelling units are allowed on each minimum-sized lot in a traditional subdivision design.

### C. MONUMENTS

Monumentation as required by the Maine Board of Registration of Land Surveyors shall be installed at the following:

1. At all road intersections and points of curvature, but no farther than 750 feet apart along road lines without intersections or curves.
2. At all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less.
3. At all other subdivision boundary corners and angle points as well as lot boundary corners and angle points.

### D. WATER SUPPLY

1. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of pollution. The lot design shall permit the placement of wells, subsurface wastewater disposal systems and reserve areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
2. The water supply for the subdivision and each lot shall be adequate to supply all the potable and other water requirements of the development. The applicant shall submit documentation from a Hydrologist or a Well Driller familiar with the area, stating that adequate water is available to supply the subdivision.

### E. FIRE PROTECTION

1. The subdivision shall be designed so that the Town of Fayette Fire Department shall have unrestricted access to all developed areas within the subdivision and adequate provisions are made for a supply of water for fire suppression. The applicant shall review the proposed subdivision with the Fire Chief and shall obtain a written statement from the Fire Chief approving the plan's fire protection measures. This statement shall be submitted with the preliminary plan application.
2. The Fire Chief in making his/her determination that adequate provisions are made for fire protection shall consider the following:
  - a. The road is adequate for the passage of fire equipment.
  - b. An adequate water supply is available near or within the subdivision to serve the density of the development.
3. The Fire Chief shall approve the fire protection measures proposed for the subdivision or shall make specific recommendations to improve the fire protection measures. In making recommendations the Fire Chief may recommend the installation of fire ponds or other similar features.

### F. SUBSURFACE WASTEWATER DISPOSAL SYSTEMS

1. The applicant shall submit evidence of site suitability for subsurface wastewater disposal system prepared by a Licensed Site Evaluator or Soil Scientist in compliance with the Subsurface Wastewater Disposal Rules of the State of Maine. All test pit/test boring locations shall be shown on the subdivision plan and be accompanied by a HHE-200 Form or other format which shows the appropriate soils data. Test pit/test boring locations shall also be marked on the site. Test borings using an auger or a soil core sample shall be performed solely by a soil scientist.
2. The applicant shall submit the test pit/test boring data to the Town of Fayette LPI for review. The LPI shall review the data for conformance with State Law and this Ordinance and issue the applicant a written statement. The LPI shall state whether the data submitted is sufficient to make a reasonable determination that the soils will accommodate a subsurface system, or indicate if additional data or site analysis is needed. The applicant shall submit the LPI's

statement with the preliminary plan application.

3. In no instance shall a disposal area for a lot or structure require a New System Variance from the Subsurface Wastewater Disposal Rules. Holding tank systems shall not be allowed to serve new lots or structures.

#### G. EROSION CONTROL

All activities which involve filing, grading, excavation, or other similar activities which result in unstable soil conditions shall comply with the following:

1. The site shall be developed so as to prevent soil erosion from entering waterbodies, wetlands, stormwater drainage features, and adjacent land. All temporary and permanent erosion control measures shall be designed in accordance with the current edition of "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices", published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environment Protection.
2. All temporary and permanent erosion features shall be shown on the subdivision plan. Provisions for the maintenance of both temporary and permanent measures shall be included on the plan.

#### H. PHOSPHORUS CONTROL

1. The following standards for phosphorus shall apply to all subdivisions located in the direct watershed of a great pond.
2. A phosphorus control plan shall be developed in accordance with the design criteria contained in the current edition of "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development", published by the Maine Department of Environmental Protection.
3. The size and location of proposed developed and disturbed sites on each lot shall be shown on the plans based upon the phosphorus and stormwater control plan for the subdivision.

#### I. STORMWATER CONTROL

All construction and development shall be designed to minimize storm water runoff from the site. Where possible, natural runoff control features shall be retained to reduce runoff and encourage infiltration. A stormwater control plan shall be developed for the site according to the following standards:

1. A stormwater control plan shall be developed to limit peak discharges from the site to predevelopment levels through a system of swales, culverts, and best management practices equivalent to those described in the current edition of "Stormwater Management for Maine: Best Management Practices", published by the Maine Department of Environmental Protection.
2. Peak discharges shall be limited to the predevelopment levels.
3. A stormwater control plan that is developed according to the requirements of the Department of Environmental Protection Regulations, Chapter 500, Stormwater Management and Chapter 502, Direct Watersheds of Waterbodies Most at Risk from New Development shall be deemed to be a suitable equivalent to these standards.
4. Driveways and roads shall meet the requirements of this Ordinance, with culvert sizes and drainage plans approved by the Road Commissioner or designee.
5. The size and location of proposed developed and disturbed sites on each lot shall be shown on the plan based upon the phosphorus and stormwater control plan for the subdivision.

#### J. WATERBODY PROTECTION

1. The locations of all rivers, streams, brooks, vernal pools, and wetlands shall be identified on the subdivision plan. This shall include all perennial and intermittent streams and forested and non-forested wetlands.

2. Waterbodies shall not be developed or disturbed unless the applicant can provide evidence that no other alternative exist. Any development planned within fifty (50) feet of the high-water line of any waterbody including the upland edge of a wetland shall require a plan which includes the following:
  - a. A description of the proposed development including the reasons why this is the only alternative
  - b. Construction drawings of the disturbance area showing all structures, fill areas, vegetative disturbance, and erosion control measures
  - c. A list of state and federal permits required, if applicable

#### K. GROUND WATER

1. Any development proposed within a sand and gravel aquifer as identified by the Maine Geological Survey shall be designed and constructed according to a plan which takes into account the impact of the development upon the aquifer.
2. The Planning Board may require the applicant to have the plan developed by a hydrologist which shows that the proposed development will not have an adverse impact upon the aquifer. The Planning Board, in making the determination that a plan be required, shall consider the density of the development, and existing conditions or problems within the area.

#### L. SPECIAL PROTECTION AREAS

The subdivision plan shall show the locations of any historic and archeological sites, wildlife habitat, scenic areas and rare and natural areas. If any of these areas are located on the site, a protection plan shall be developed in accordance with the following:

1. If any portion of the site is designated as a significant archeological or historic site by the Maine Historic Commission, Comprehensive Plan, or listed on the National Register of Historic Places, the applicant shall develop appropriate measures for the protection of these resources according to local, state and federal regulations.
2. If any portion of the site is located within an area designated as a scenic area or a unique natural area by the Maine Natural Areas program of the Comprehensive Plan, the applicant shall develop appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the site is within a wildlife habitat area, the applicant shall consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and develop measures to protect these areas from environmental damage and habitat loss.

Wildlife habitat areas shall include, but are not limited to:

- a. Habitat for species appearing on the official state or federal list of endangered or threatened species
- b. Significant waterfowl and wading bird habitats, including nesting and feeding areas, as defined by the Maine Department of Inland Fisheries and Wildlife
- c. Significant deer wintering areas as identified by the Maine Department of Inland Fisheries and Wildlife
- d. Vernal pools, and
- e. Other known wildlife habitat of local significance brought to the attention of the applicant or permitting officials.

#### M. FINANCIAL AND TECHNICAL CAPACITY

The applicant shall submit evidence that he/she has adequate financial and technical capacity to design and construct the development in accordance with all applicable local, state, and federal laws and regulations. Evidence of adequate financial and technical capacity shall consist of the following:

1. A list of all technical and professional staff involved with the proposal and preparation of the application including their qualifications and past experience with projects of similar size and scale.
2. A list of all persons with inspection and oversight responsibilities for the development and if available, the persons selected to construct the project, including their qualifications and past experience with projects of similar size and scale.
3. A letter from a financial institution such as a bank or other lending institution that states that the applicant has the necessary funds available or a loan commitment from this institution to complete the proposed development within the time period specified by the applicant.

N. CONFORMITY WITH ALL OTHER APPLICABLE LOCAL ORDINANCES

The applicant shall show that the subdivision meets all other applicable local ordinances including Floodplain Management Ordinance for the Town of Fayette, Maine.

O. DRIVEWAY AND ROAD STANDARDS

Subdivision roads shall follow the standards within Article VI. Driveways and Roads, with Mobile Home Parks following additional standards as provided in Section 9.E.8 below.

P. RECREATIONAL ACCESS STANDARDS

1. Outdoor recreational access is an important feature of Fayette's rural heritage and all subdivision proposals consisting of more than four (4) lots or eight (8) units shall provide for access to outdoor recreation opportunities. Depending on the type of subdivision, an indoor community recreational space may be appropriate to serve resident needs. Recreational facilities designed to serve the subdivision residents and/or the general public shall be included in the subdivision plan.
2. At a minimum, access to existing trails and natural areas shall be maintained and improved if feasible. A multi-purpose trail system within the subdivision that can be reasonably accessed by lot residents may satisfy the recreational requirement, as may outdoor garden and wildlife viewing areas. Any portion of land set aside for open space to satisfy this requirement must have a plan for effective recreational access.
3. For subdivisions with access to a great pond, shared access shall be provided for all subdivision residents. If feasible, a parcel of land consisting of at least one acre and having a minimum of 200 feet of shore frontage will be dedicated for recreation and shall be suitable for at least boat access or swimming. If unfeasible, and for subdivisions with access to streams, rivers or wetlands, a smaller area that is not a separate parcel of land may be proposed subject to meeting Shoreland Zoning requirements. Trails, rights-of-way, or other similar easements shall be provided so that residents can access the parcel.
4. Land for the recreational sites may be offered to the Town for public acceptance or may be owned in common by the subdivision lot owners. The applicant may also propose to dedicate the recreation areas to a third party that is incorporated for the purpose of maintaining land for conservation and preservation use.
5. All land proposed for recreation purposes shall be protected by a suitable deed restriction that prohibits development and preserves the land for future inhabitants.
6. All recreational areas to be owned in common shall include a maintenance plan and mandatory association agreement in each of the subdivision lot deeds.
7. The Planning Board shall review all proposed ownership arrangements to ensure that the long-term maintenance and preservation of the recreational sites is provided.

Q. AGRICULTURAL AND FOREST RESOURCES

1. Existing agricultural uses and prime or regionally significant farmland soils shall be preserved to the greatest extent possible. The subdivision application shall describe how existing agricultural land will be managed in the future.



2. Whenever a proposed subdivision is located adjacent to an active farm, pasture or field, suitable provisions shall be incorporated in the subdivision proposal to minimize future conflicts between residential sites and agriculture.
3. Provisions to reduce conflicts between residential use and activities of a working rural landscape shall be proposed based upon the size, density and site conditions of the particular subdivision. Some possible options include:
  - a. A mandatory structure setback of 100 feet from the farm or forest site
  - b. A vegetative buffer along property lines
  - c. Location of homes away from the farm or forest
  - d. A disclosure notice, included in the deed for each lot, to inform the new landowner that agricultural and forest activities generate noise, dust and odors

**R. RURAL DESIGN AND LANDSCAPE STANDARDS FOR PUBLIC SCENERY**

Each subdivision proposal shall include a landscape or scenic preservation plan which shows how the lots, building sites, structures and roads preserve the existing rural character of the community. The plan shall incorporate the following standards into the overall development of the subdivision:

1. Building sites shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas.
2. Road and lot layout shall be adapted to the existing topography.
3. Existing trails shall be preserved.
4. Existing vegetation along front, side and rear lot property lines shall be preserved.
5. Lots shall be designed to enhance the privacy and rural atmosphere of the development.
6. Trees located along the roads shall be preserved to the greatest extent possible to maintain a rural landscape corridor.
7. Existing vegetation along all streams, ponds, and wetlands shall be preserved.

**SECTION 9. MOBILE HOME PARK STANDARDS**

**A. MOBILE HOME PARK REVIEW**

All mobile home parks shall be considered a subdivision and shall conform to all standards applicable to a subdivision except for those specific standards contained in this Section.

**B. LIMITATION ON UNITS**

No dwelling unit other than a mobile home shall be located within the park. All newly manufactured units, whether owned by the park owner or tenants, must provide proof of sales tax payment before being placed on lots as required in 30-A M.R.S. §4358, Sub-§4.

**C. MODIFICATIONS**

A mobile home park shall not be converted into another use or be expanded without Planning Board approval. Mobile home parks shall not be converted into a manufactured housing or conventional subdivision on individually owned lots unless all the applicable ordinance standards are met.

**D. UNIFIED OWNERSHIP**

The land within the mobile home park shall remain in unified ownership and the fee to the lots or portions of the lots shall not be transferred.

## E. MINIMUM DESIGN AND PERFORMANCE STANDARDS

### 1. Lot Size, Width, And Density

Lots in a mobile home park shall meet the following lot size, width, and density requirements:

- a. Lots served by individual subsurface sewage disposal system:
  - (1) Minimum lot area - 20,000 square feet
  - (2) Minimum lot width - 100 feet
  - (3) Minimum lot frontage - 100 feet
- b. Lots served by a central subsurface wastewater disposal system:
  - (1) Minimum lot area - 12,000 square feet
  - (2) Minimum lot width - 75 feet
  - (3) Minimum lot frontage - 75 feet
- c. The overall density of a mobile home park served by a central subsurface sewage disposal system shall be no greater than one unit per 20,000 square feet of total park area.
- d. Lots shall be measured in a straight line between the intersection of the side lot lines and the front lot line. Where lots front on a curved right-of-way or are served by a driveway, the frontage requirement shall be measured in a straight line perpendicular to the front of the mobile home.
- e. The overall area of the mobile home park shall be the combined area of its mobile home lots plus:
  - (1) All wetlands, rivers, streams, brooks, areas with 20% slopes or greater, flood ways, storm drainage areas
  - (2) The area required for road rights-of-way
  - (3) The area required for buffer strips, if any, and
  - (4) The area within the Resource Protection District or shoreland setback.

### 2. Lot Setbacks

- a. The following lot setbacks shall apply to all mobile homes and accessory buildings:
  - (1) Front setback: 20 feet on internal private park roads, 50 feet on public roads
  - (2) Side setback: 20 feet
  - (3) Rear setback: 10 feet
- b. A minimum twenty (20) foot separation shall be maintained between all mobile homes in all directions.
- c. The Planning Board may allow lot side yard setbacks to be reduced to five (5) feet provided a distance of twenty (20) feet is maintained between the units for the purpose of providing more usable yard space on one side of the home and for fire protection.
- d. To avoid monotony and sameness, the Planning Board may allow the front yard setback on a private road within a mobile home park to be varied provided that no home may be closer than ten (10) feet from the right-of-way and the average distance is at least twenty (20) feet for all units.

3. Buffer Strips

- a. A fifty (50) foot wide buffer strip shall be provided along all property boundaries that abut residential land which has gross density of less than half of that proposed in the park or abut residential land that is zoned at a density of less than half of that proposed in the park.
- b. No structures, streets or utilities shall be placed in the buffer strip except that they may cross a buffer to provide services to the park.
- c. Within twenty-five (25) feet of any property line and within the buffer strip, visual screening and/or landscaping shall be provided. The visual screening may consist of fences, berms, landscaping (such as shrubs and trees) and/or natural existing vegetation. This screening shall effectively screen at least 80% of the homes from the adjacent property and shall be maintained throughout the life of the project.

4. Fire Protection

Each lot shall be legibly marked for identification with E-911 address assigned by the Fayette Addressing Officer and easily accessible to emergency vehicles, permitting fire apparatus to approach within 100 feet.

5. Park Administration

- a. The owner or operator of a mobile home park shall be licensed with the Manufactured Housing Board and responsible for ensuring the maintenance of all structures and their sites. Park management shall conform to state laws.
- b. Compliance with this Ordinance shall not exempt the park owner, developer, or manager from complying with other applicable local, state, and federal codes and regulations.
- c. As a condition of approval, the owner or operator will be required to file a copy of its license as it is renewed with the Code Enforcement Officer.
- d. Any notices of violation, together with follow-up action by the owner or the Board, shall be provided promptly to the Code Enforcement Officer no later than five (5) business days following receipt.

6. Parking Requirements

- a. For each mobile home lot there shall be provided and maintained at least two (2) off-street parking spaces.
- b. Each parking space shall contain a minimum of 200 square feet with minimum dimensions of ten (10) by twenty (20) feet. This requirement may be waived if a parking lane is provided.

7. Refuse Disposal

The storage, collection, and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

8. Road Standards

a. Road Design Standards:

- (1) Private Roads Privately owned roads within the mobile home park shall be designed by a professional engineer, registered in the State of Maine, and shall be built according to accepted engineering standards.
- (2) Roads for Public Acceptance Roads within mobile home parks which are to be offered for acceptance by the Town shall conform to the requirements of those road standards in this Ordinance.
- (3) Intersection with Public Roads The engineer shall design the intersection(s) with public roads to meet the road access requirements of this Ordinance as certified by the Road Commissioner or designee.

b. Access and Design Standards:

- (1) Mobile home parks must be accessed via a maintained public road within the Village District.
- (2) No mobile home lot may have vehicular access directly onto the public access road.
- (3) The layout and general development plan for major and minor access streets and driveways within the mobile home park, together with the location and way, shall be approved by the Planning Board.
- (4) A traffic impact analysis shall be required if the park will generate more than 500 trips/day.
- (5) For mobile home parks expected to generate 200 trips per day or more, there shall be at least two (2) entrances from maintained public roads.
- (6) Curvilinear streets shall be utilized wherever possible. No street within the park shall be more than 200 feet without a curve or bend.

c. Right-of-way and Pavement Width:

- (1) Two-way park roads shall have a minimum right-of-way of twenty-three (23) feet and a minimum paved surface of twenty (20) feet. On-street parking shall be prohibited.
- (2) One-way streets shall have a minimum right-of-way of eighteen (18) feet and a minimum paved surface of fourteen (14) feet. On-street parking shall be prohibited.
- (3) Parking lanes shall be a minimum of eight (8) feet in width, if provided.
- (4) Cul-de-sac turnarounds (option for private roads only) shall have a minimum radius of fifty (50) feet at the outer edge of the pavement, exclusive of any parking areas.
- (5) The Planning Board may waive the paving requirement upon finding that a non-paved road will serve the park residents with equivalent quality of access, deliver less runoff, and provide a neighborhood character more in keeping with a rural town.

9. Water Supply

- a. An adequate and potable supply of water with a minimum of 30 pounds per square inch of pressure at all times shall be provided for each mobile home lot.
- b. The water source shall be capable of producing 300 gallons of potable water per mobile home lot per day.
- c. Community water systems shall be approved as regulated by the Manufactured Housing Board and/or Division of Health Engineering at the Maine Center for Disease Control and Prevention.
- d. The results of annual testing requirements will be provided to the Code Enforcement Officer, together with any necessary required treatments for contaminants.

10. Storage

At least 300 cubic feet of enclosed tenant storage facilities shall be conveniently provided near each mobile home lot for the storage of materials and equipment.

11. Records

Each permittee shall keep a written record, subject to inspection at any reasonable time by a duly authorized officer of the Town of Fayette, which shall contain the date of arrival, the name, make, year, model, serial number and length of each mobile home, as well as owner information. A complete list of the above shall be furnished to the Assessor's Office no later than April 1 of each year.

## **SECTION 10. ENFORCEMENT**

- A. No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Planning Board in accordance with this Ordinance.
- B. A person shall not convey, or offer to convey, any land in a subdivision which has not been approved by the Planning Board and recorded in the Kennebec County Registry of Deeds.
- C. A person shall not sell, lease, offer or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- D. No public utility, water district, sanitary district, or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Planning Board.
- E. Development of a subdivision without Planning Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings, which require a plan approved as provided in this Ordinance and recorded in the Registry of Deeds.
- F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the road upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot.
- G. Violations of the above provisions of this Section are a nuisance and shall be punished in accordance with the provisions of *30-A M.R.S. §4452*.

## ARTICLE XI. DEFINITIONS

**Abutter** – the owner of any property with one or more common boundaries with, or across a road or stream from, the property involved in an application being reviewed by any municipal authority

**Abutting Property** – the parcel(s) sharing a boundary line with, or across the road or stream from, the subject property

**Accessory Dwelling Unit (ADU)** – a self-contained dwelling unit that is between 190 - 1000 square feet and is located within, attached to, or detached from a single-family dwelling unit located on the same parcel, constructed or permitted after July 1, 2024, as designated by the Code Enforcement Officer

**Accessory Structure or Use** – a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Accessway** – a public or private point of entry or exit, designed for pedestrians or vehicles of any kind, including but not limited to either temporary or permanent trails, driveways, and roads, which is adjacent to a public or private road

### **Affordable Housing Development** –

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

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

For purposes of this definition, “housing costs” include, but are not limited to:

1. For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent
2. For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner’s insurance, condominium fees, and homeowners’ association fees

**Agriculture or Agricultural Production** – the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables, and ornamental and green house products. Agriculture does not include forest management or timber harvesting activities. Agricultural production does not include processing facilities, slaughterhouses or the composting of material imported from off-site.

**Aggrieved Party** – an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted, or any other person or group of persons, who have suffered particularized injury as a result of the granting or denial of such permit or variance

**Alteration** – a change in external footprint, roof pitch, or roof height of a structure

**Aquaculture** – the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species

**Appellate Review** – a review of the existing record to determine if a decision based upon that record was capricious, arbitrary, legally incorrect or not supported by the facts

**Applicant** – the person applying for approval under this Ordinance

**Attached** – connected by a shared wall to the principal structure or having physically connected finished spaces.

**Automobile Graveyard** – a yard, field or other area used as a place of storage for three or more unserviceable, discarded, worn-out or junked motor vehicles as defined in 29-A M.R.S. §101, or parts of such vehicles. The definition includes discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture, scrap or junked lumber, copper, brass, rope, rags, paper, trash, rubber debris, waste, and all scrap iron, steel and other ferrous or non-ferrous material. The definition also includes an area used for automobile dismantling, salvage and recycling operations. The definition excludes any area used for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable. Temporary storage shall not exceed 120 days.

**Automobile Recycling Business** – the business premises of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that 80% of the business premises specified in the site plan in 30-A M.R.S. §3755-A subsection 1, paragraph C is used for automobile recycling operations

**Automobile Service and Repair** – a business establishment engaged in general repair, engine rebuilding, parts replacement, muffler replacement, oil and lube service, brake service, auto glass, auto body repair, auto painting, car washing, undercoating, motorcycle repair, recreational vehicle repair such as snowmobiles, ATV's, boat engines, and small engine repair

**Background Level** – the all-encompassing level of attribute associated with a given environment, being, in the case of noise, a composite of sounds from many distant, individually indistinguishable sources, prior to the new noise being introduced, and excluding noise from individual identifiable vehicles, power tools in temporary use, or other sporadic emanators of noise at the site being evaluated. Similar analyses would be applied to other applicable attributes, such as odor, glare, dust, vibration, etc.

**Basal Area** – the area of cross-section of a tree stem at the 4.5 feet above ground level, inclusive of bark

**Basement** – any portion of a structure with a floor to ceiling height of 6 feet or more and having more than 50% of the volume below the existing ground level.

**Boat Launching Facility** – a facility designed primarily for the launching and landing of watercraft, and which may include an access docking area and parking spaces for vehicles and trailers

**Brook** – see "Stream Channel"

**Building** – same as "Structure"

**Bunkhouse** – a portion of a dwelling unit consisting of a detached bedroom or bedrooms having no plumbing

**Campground** – any area or tract of land to accommodate 2 or more parties in temporary living quarters, including, but not limited to, tents, recreational vehicles, or other shelters

**Campsite** – an area of land which is not associated with a campground, but which is developed for repeated camping, and which may include but not be limited to a parking area, fire pit, or tent platform

**Canopy** – the more or less continuous cover formed by tree crowns in a wooded area

**C.M.R.** – Code of Maine Rules

**Code Enforcement Officer (CEO)** – the person or persons appointed by the Fayette Select Board to administer and enforce this Ordinance

**Commercial Lodging** – the use of lands, buildings, or structures maintained or advertised as a place where sleeping accommodations are furnished that offers stays that are temporary in nature and the intent and result of which activity is the production of income. A short-term rental of up to one residential dwelling unit (or portion thereof) on a lot at a time is exempted from this definition.

**Commercial Use** – the use of lands, buildings, or structures, other than a "home occupation", the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units by the owner

**Communication Tower** – a structure on which commercial transmitting and/or receiving antennas are located

**Complete Application** – an application shall be considered complete upon submission of the required fee and all the information required by this Ordinance or by a vote to waive certain submission or performance standards by the Planning Board.

**Concept Plan** – an informal drawing (approximately to scale) and set of basic information designed to give the Planning Board an idea of existing site conditions and what is to be proposed in a Development Permit Application

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

**DBH (Diameter at Breast Height)** – the diameter of a standing tree measured 4.5 feet from ground level.

**De novo Review** – a review that looks at the factual and legal issues afresh, undertakes its own credibility determinations, evaluates the evidence presented, and draws its own conclusions.

**Density Limit** – the maximum number of dwelling units allowed on a lot, subject to dimensional requirements.

**Designated Agent** – a person, company or other entity that is authorized by the landowner to act on the landowner's behalf for permitted activities occurring on their property

**Development** – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring. This definition excludes



agriculture, timber harvesting, family gardening, and minor landscaping intended to improve or enhance the appearance of buildings and grounds.

**Development Permit** – written authorization from the Planning Board that the activity applied for pursuant to Articles VIII and IX of this Ordinance has been approved

**Development Permit Application** – the information provided by the applicant as required by this Ordinance for the Planning Board to use in its review. A Preliminary (Development Permit) Application is always submitted and may, if in full compliance with the standards of this Ordinance, be approved without further work on the part of the applicant. If the plan needs more than minor adjustments in order to be approved, a Final (Development Permit) Application is required.

**Dimensional Requirements** – numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage, structure height and land area per structure or dwelling unit

**Direct Watershed of a Pond** – that portion of the watershed which drains directly to the pond through sheet or concentrated flow without first passing through an upstream pond or river

**Disability** – any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician, or in the case of mental handicap, by a psychiatrist or psychologist; any other health or sensory impairment which requires special education, vocational rehabilitation or related services

**Disruption of Shoreline Integrity** – the alteration of the physical shape, properties, or condition of a shoreline at any location by construction, and/or related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

**Drainage Dip** – a shallow depression across the landscape, used on gravel roads in lieu of culverts when road ditches are not deep enough to connect with culverts. Drainage dip sizing should be at a minimum 12 inches deep and 15 feet wide across the entire width of the road, shallow enough to drive thru without scraping the bottom of vehicles. They should be constructed (lined) with stone riprap protection.

**Driveway** – an accessway designed for the repeated use of motor vehicles serving no more than two lots or four dwelling units

**Duplex** – a structure containing two dwelling units

**Dwelling or Dwelling Unit** – a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time period rented. Recreational vehicles are not residential dwelling units.

**Emergency Operations** – operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss; law enforcement, and operations to rescue a person or their property and livestock from the threat of destruction or injury

**Essential Services** – gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems and associated storage tanks. Such systems may include towers, poles, wires,

mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Expansion of a Structure** – an increase in the floor area or volume of a structure, including all attached extensions such as, but not limited to, decks, garages, porches and greenhouses

**Expansion of Use** – the addition of one or more months to a use's operating season or the use of more floor area or ground area devoted to a particular use

**Family** – one or more persons occupying a premises and living as a single housekeeping unit

**Final Plan** – the final drawings and other required materials on which the applicant's development or subdivision plan is presented to the Planning Board for approval and which, if approved, may be recorded at the registry of Deeds

**Financial capacity** – the demonstration of current and future financial assets, protected from the owner's or operator's future financial condition, which must be sufficient to fully fund decommissioning in accordance with an approved decommissioning plan under this Ordinance.

**Fire Prevention Activities** – any action or activity deemed necessary by the Town of Fayette Fire Chief to protect persons and property from the potential spread of fire, in accordance with sound methods and practices of fire prevention

**Floating District** – an unmapped district adopted within the Ordinance that is established on the Land Use District Map only when a Development Application, meeting the Floating District requirements, is approved. The Floating District is subject to Planning Board Development Review and approval, and acceptance at Town Meeting.

**Floodway** – the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100– year flood without cumulatively increasing the water surface elevation by more than one foot in height

**Floor area** – the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal areas of flooring of any unenclosed portion of a structure, such as a porch or a deck

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

**Forested Wetland** – a wetland dominated by woody vegetation that is 20 feet tall or taller

**Foundation** – the supporting substructure of a building or other structure, such as basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material. This excludes wooden sills and post supports.

**Free-Standing Sign** – a sign that is permanently erected in a fixed location and supported by one or more columns, upright poles or braces extended from the ground or from an object on the ground, and not attached to or dependent for support upon any building

### **Freshwater Wetland –**

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

1. Ten or more contiguous acres
2. Less than ten contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten acres
3. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils
4. Not part of a Great Pond, stream, or river

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

**Full-cutoff Light** – a light fixture that is shielded so that no light is emitted at or above the horizontal plane and the intensity does not exceed 10 percent at an angle of 10 degrees below the horizontal plane

**Functionally Water– dependent Uses** – those uses that require for their primary purpose location on submerged lands, or that require direct access to, or location in, inland waters and that cannot be located away from these waters. The uses include, but are not limited 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, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters.

**Grandfathered** – a parcel or use of land which is exempt from application of a particular provision of this Ordinance because it existed at the time that particular provision was enacted, and it has continued to exist continuously since then

**Great Pond** – any inland body of water which in a natural state has a surface area in excess of 10 acres, and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres except, for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by and held by a single owner

**Great Pond Classified GPA** – any great pond classified GPA, pursuant to 38 M.R.S. Article 4-A §465-A. This classification includes some but not all impoundments of rivers that are defined as great ponds.

**Ground Cover** – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor

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

**Hazard Tree** – a tree with a structural defect, combination of defects, or disease resulting in a structural defect that, under the normal range of environmental conditions at the site, exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to, hurricanes, hurricane– force winds, tornados, microbursts, or significant ice storm events.

Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

**Height of a Structure** – the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area

**Home Occupation** – an occupation, enterprise or profession which is customarily conducted on or in a residential structure or property and which is clearly incidental to and compatible with the residential use of the property and surrounding residential uses, and also which employs no more than two (2) persons other than family members residing in the home

**Hydric** – pertaining to or adapted to a wet or moist environment

**Impervious Area** – includes all structures and non-vegetated areas on a parcel of land

**Increase in Nonconformity of a Structure** – any change in a structure or property which causes further deviation from the dimensional standards creating the nonconformity. These changes can include, but are not limited to, reduction in water body, tributary stream or wetland setback distance; increase in lot coverage, or increase in height of a structure.

**Individual Private Campsite** – an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed 10 individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fireplace, or tent platform

**Industrial** – the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals

**Institutional** – a non-profit, for-profit or quasi-public facility such as a church, library, public or private school, hospital, elderly housing or municipally owned or operated building, structure or land used for public purposes.

**Junkyard** – a yard, field or other outside area used to store, dismantle, or otherwise handle:

1. Discarded, worn– out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture
2. Discarded, scrap and junked lumber
3. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material

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

**Land Use Permit** – authorization to conduct a land use activity requiring such a permit pursuant to this Ordinance

**Land Use Review** – the process by which either the Code Enforcement Officer or Planning Board considers and renders a decision on an application for a Land Use Permit as outlined in Article VIII

**Legal Non-conforming Condition** – a non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect

**Legal Non-conforming Lot** – a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located

**Legal non-conforming Structure** – a structure which does not meet any one or more of the following dimensional requirements; setback, frontage, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Legal Non-conforming Use** – use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect

**Legislative Body** – the Legislative Body for the Town of Fayette is the Town Meeting.

**Licensed Forester** – a forester licensed under 32 M.R.S. Chapter 76

**Lot Area** – the amount of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots

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

**Market Value** – the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels

**Megawatt (MW)** – a unit for measuring power that is equivalent to one million watts, or 1,000 kilowatts

**Metes and Bounds** – measurements of the limits of boundaries; dimensions

**Mineral Exploration** – hand sampling, test boring, or other methods of determining the nature or extent of mineral resources, which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition

**Mineral Extraction** – any operation within any 12 month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed away from the extraction site

**Minimum Lot Width** – the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**Minor Subdivision** – subdivision proposal consisting of no more than 4 lots and/or units and which does not involve the construction of any private or public roads

**Mobile Home Park** – parcel or adjoining parcels of land, under single ownership, that has been planned and improved for the placement of 3 or more mobile homes, and with lots intended to be rented.

**M.R.S.** – Maine Revised Statutes

**Multi-unit Residential** – a residential structure containing three or more residential dwelling units

**Name Sign** – a sign identifying a resident or business name and/or address without additional information

**Native** – indigenous to the local forests

**Non-conforming Condition** – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect

**Non-conforming Lot** – a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located

**Non-conforming Structure** – a structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect

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

**Non-intensive Recreation** – outdoor recreation activities which involve no structural or mechanical components or facilities such as hiking, fishing, hunting and snowmobiling

**Non-native invasive species of vegetation** – species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems

**Normal High-Water Line** – that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

**Outlet Stream** – any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland

**Parking Area** – any space utilized to park vehicles or equipment on private property. Parking areas are for personal rather than public use

**Parking Lot** – any space utilized to park vehicles or equipment on public or private property designed for use by the public

**Parking Lot for Public and Private Recreational Areas** – any area nearby or adjacent to a recreation facility, e.g. beach, water access point, sporting field or similar non-commercial locations designed for vehicle parking by community residents during the period of use of the facility

**Permanent Crossing** – means any structure constructed or erected with a fixed location, in, on, or over a water body for a period exceeding 7 months each year, including, but not limited to, culverts and bridges

**Person** – an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity

**Pond** – any inland body of water which in a natural state has a surface area between 4,300 square feet and 10 acres

**Portable Sign** – an advertising sign located on the ground, not permanently attached, easily movable, and usually two-sided. A “sandwich board” is a type of portable sign.

**Preliminary Plan** – the preliminary drawings and other required materials indicating the proposed layout of the subdivision to be submitted to the Planning Board for consideration

**Principal Structure** – a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises

**Principal Use** – a use other than one which is wholly incidental or accessory to another use on the same premises

**Property Owner** – person listed as the current owner of record on the Town of Fayette property tax assessment records

**Public Facility** – any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated or funded by a governmental body or public entity. This includes facilities commonly and frequently used by the public regardless of ownership.

**Public Hearing** – a meeting whose primary purpose is to present an issue to the public and receive feedback about it. Decisions are not made at a public hearing.

**Public Improvements** – The term shall include

1. All roads proposed for public acceptance
2. Fire protection structures and ponds
3. Any structure or land proposed to be dedicated to the Town
4. Any land or structure which is offered as an easement to the Town
5. All storm drainage structures which are designed to allow water to flow outside the property of a subdivision

**Public Meeting** – a regular meeting of a town board, notice of which is given to the public. Thus, regular meetings of the Select Board, Planning Board, and Appeals Board are public meetings. The primary purpose of a public meeting is for the board to do its business.

**Public View** – what is visible from the property line from the abutting property or right-of-way and from any point across the road parallel to the frontage of the site

**Rated Nameplate Capacity** – the maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC)

**Rear Lot** – a parcel of land which does not meet the road frontage requirement for the district in which it is located due to its positioning behind a lot which does meet the road frontage requirements. The rear lot must otherwise meet minimum lot requirements.

**Recent Flood Plain Soils** – the following soil series as described and identified by the National Cooperative Soil Survey:

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

**Recreational Facility** – a place designed and equipped for conduct of sports, leisure time activities, and other customary and usual recreational activities. excluding boat launching facilities

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

**Residential** – designed for people to live in

**Residual Basal Area** – the average of the basal area of trees remaining on a harvested site

**Residual Stand** – a stand of trees remaining in the forest following timber harvesting and related activities

**Riprap** – rocks, irregularly shaped, and at least 6 inches in diameter, used for erosion control and soil stabilization. Typically used on ground slopes of 2 units horizontal to 1 unit vertical or less.

**River** – a free-flowing body of water including its associated flood plain wetlands from that point at which it provides for a watershed of 25 square miles to its mouth

**Road** – a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a Driveway

**Road Frontage** – the horizontal straight-line distance between the intersections of the side lot lines with the road right-of-way

**Sapling** – a tree species that is less than 2 inches in diameter at 4.5 feet above ground level

**Seasonal Conversion** – the changing of use of a seasonal structure or property to year-round status. Permit shall be required from a Licensed Plumbing Inspector.

**Seasonal Structure and Use** – a residence intended for use or occupancy for fewer than 7 months within any consecutive 12-month period

**Seedling** – a young tree species that is less than 4.5 feet in height above ground level



**Service Drop** – any utility line extension which does not cross or run beneath any portion of a water body provided that:

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

**Select Board** – elected officials of the town, or municipal officials, previously referred to as "Board of Selectmen"

**Setback** – the nearest horizontal distance from a property boundary, road centerline, normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area

**Sewage System** – see Subsurface Wastewater Disposal System

**Shore Frontage** – the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline

**Shoreland Zone** – the land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet of the upland edge of a freshwater wetland; or within 75 feet, horizontal distance, of the normal high-water line of a stream. This zone also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland

**Shoreline** – the normal high-water line of a water body, or the upland edge of a wetland

**Short-Term Rental (STR)** – a dwelling unit (or portion thereof) or campsite that is rented to renters/guests for a period of less than 30 consecutive days

**Sign** – as defined in 23 M.R.S. §1903 sub-§14, any structure, display, logo, device or representation which is designed or use to advertise or call attention to any thing, person, business, activity or place and is visible from any public way. It does not include the flag, pennant or insignia of any nation, state or town. Whenever dimensions of a sign are specified they shall include frames. For purpose of this Ordinance, signs visible from private roads are also subject to the standards of Article V, Section 6 and Article VII, Section 4.G of this Ordinance.

**Single-family Dwelling Unit** – a structure containing one dwelling unit

**Significant Wildlife Habitat** – as defined in 38 M.R.S. Chapter 3, Article 5-A, §480-B.10

**Sketch Plan** – conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial inquiry and review prior to submitting an application for Subdivision approval

**Solar Array** – a grouping of multiple solar modules with the purpose of harvesting solar energy

**Solar Related Equipment** – items including a solar photovoltaic cell, module, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing, fencing, foundations, or other structures used or intended to be used for collection and management of solar energy

**Storm-damaged tree** – a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event

**Stream** – a free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the National Map, to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland, and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

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

**Structure** – anything temporarily or permanently located, built, constructed, or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind, or anything constructed or erected on or in the ground, exclusive of subsurface waste water disposal systems (as defined in 30-A M.R.S. §4201, sub-§5), geothermal heat exchange wells (as defined in 32 M.R.S. 470-E, sub-§ 3-C), or water wells (as defined in 32 M.R.S. §4700-E, sub-§ 8), fences, and poles, wiring and other aerial equipment normally associated with service drops, as well as guying, guy wires and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Roads and driveways are excluded provided all applicable requirements within Articles IV, V, VI and VII of this Ordinance are met.

**Subdivision** – as defined in 30-A M.R.S. §4401, sub-§4, summarized as the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This applies whether the division is accomplished by sale, lease, development, buildings, or otherwise. This also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction of 3 or more dwelling units on a single tract or parcel of land, and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period. Lots greater than 40 acres shall be deemed to be a lot and subject to the provisions of this Ordinance. Further specifications are outlined in 30-A M.R.S. §4401, sub-§4.

**Substantial Start** – completion of 30 percent of a permitted structure or use measured as a percentage of estimated total cost

**Subsurface Wastewater Disposal System (SSWD)** – any system designed to dispose of waste or wastewater on or beneath the surface of the earth, including, but not limited to septic tanks, disposal fields, grandfathered cesspools, holding tanks, pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes. It does not include any discharge system licensed under 38 M.R.S. §414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system.

**Sustained Slope** – a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area

**Timber Harvesting** – the cutting and removal of timber for the primary purpose of selling or processing forest products. “Timber harvesting” does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than 2 acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Article VII, Section 4.L (Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting).

**Timber Harvesting and Related Activities** – timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting

**Town Meeting** – a meeting of the town's legislative body at which decisions are made regarding how the issues set forth in the warrant articles should be handled

**Transfer of Ownership** – a change in the legal entity that owns or operates a solar energy development. A sale or exchange of stock or membership interests or a merger is not a transfer of ownership as long as the legal entity that owns or operates the solar energy development remains the same.

**Tree** – a woody perennial plant with a well-defined trunk(s) at least 2 inches in diameter at 4.5 feet above the ground, with a more or less definite crown, and reaching a height of at least 10 feet at maturity

**Tributary Stream** – a channel between defined banks, created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock, and which is connected hydrologically with other water bodies. A tributary stream may be perennial or intermittent, and where a tributary stream is present within the Resource Protection, Stream Protection, Wetland Protection or Lakefront District, setback standards from that tributary stream are applicable. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

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

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**Trip** – a single or one-direction vehicle movement with either the origin or destination inside the Development area

**Triplex** – a structure containing three dwelling units

**Upland Edge of a Wetland** – the boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are 20 feet tall or taller.

**Utility Scale Solar Facility (USSF)** – any solar facility, project, or installation which is intended to, and/or in fact does, generate solar power and feeds said power into the electric grid supplying the local utility with power. This shall include, but is not limited to, any ground mounted photovoltaic (PV) project that is larger than 0.10 megawatts (AC) in capacity and greater than 800 square feet in extent. Residential/commercial solar arrays smaller than 0.10 megawatts (AC), and roof mounted installations, are not included in this definition.

**Vegetation** – all live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4.5 feet above ground

**Volume of a Structure** – the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of the walls and roof

**Water Body** – any area that in a normal year has water flowing or standing above ground to the extent that evidence of an ordinary high-water mark is established. Wetlands contiguous to the water body are considered part of the water body.

**Water Crossing** – any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables, as well as maintenance work on these crossings.

**Watershed** – an area of land that drains downslope to the lowest point. The water moves through a network of drainage pathways, both underground and on the surface. Generally, these pathways converge into streams and rivers, which become progressively larger as the water moves on downstream, eventually reaching an estuary and the ocean. Watersheds can be large or small. Every stream, tributary, or river has an associated watershed, and small watersheds join to become larger watersheds. Watershed boundaries follow major ridgelines around channels and meet at the bottom, where water flows out of the watershed, a point commonly referred to as a stream or river.

**Wetland** – areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils and which are not part of a great pond, river, stream, or brook. Wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

**Wetlands Associated with Great Ponds and Rivers** – wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high-water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

**Wildlife Park** – the application of scientific and technical principles to wildlife populations and habitats to maintain such populations (particularly mammals, birds and fish) essentially for recreational and/or scientific purposes, usually within a restricted, enclosed area

**Woody Vegetation** – live trees or woody, non-herbaceous shrubs