

Fayette Joint Land Use Committee

Meeting #8 • January 22, 2024 • Noon–2:00 PM

Starling Hall or via Zoom: [January 22, 2024 - 12pm](#)

Meeting ID: 860 8857 2932 • Passcode: 260927 • Phone: 301 715 8592

AGENDA

- Noon Welcome and Review of Agenda (Mary Ann)
- 12:05 Review & Approve January 8 Meeting Record (Mary Ann)
- 12:10 Dimensional Requirements and ADU/Short-Term Rentals in Land Use Table (Mary Ann)
- District Names (Lakefront and Village)
 - Minimum Lot Size and Density Recommendations – see table and comments
 - Reduced Road Frontage and Increased Impervious Lot Coverage in Village District
 - Short-Term Rentals – 1 unit per lot at a time, not allowed for ADUs
 - Owner Occupied (Recommend we do not require)
 - Addition or 2nd unit or ADU requires approval by LPI
 - ADU Maximum Size – Suggest either 1000sf or 50% of Principal Dwelling Living Area (if internal) or Footprint (if external)
 - Future conveyance – require all units on single lot to be conveyed together unless approved as a condominium under subdivision or site plan review
 - Roadside Dependent Uses – see revised recommendation
 - Side and Rear Setbacks – Keep existing distances, no waivers outside Practical Difficulty Test
 - Additional units proposed after 2 are located in all districts (including adding ADU if already 2 units): require subdivision or site plan review
 - Need to decide whether to allow 2 units on a lot if a former structure is removed – suggest we allow
- 12:40 Shoreland Zoning Review (Jess)
- Do we wish to regulate piers and docks beyond high water line? (Optional)
 - Do we wish to continue to include the 250' around freshwater wetlands that MDIFW considers significant wildlife habitat using current data layer? (Optional)
 - If yes, do we wish to zone them RP or WP? (considerations for any new property that would be zoned RP especially)
 - Ordinance Organization
 - Separate SZ standards section?
 - Separate detailed LU Table in that section? Keep base table and standards simple for rest of town?
- 1:10 Short-Term Rental Ordinance – Review Working Draft (Belinda)
- All standards must be in ordinance and then enforceable on licensees
 - Deleted front-end CEO safety inspection, going with affidavit
 - Septic review by LPI, pumping required every 2 years in SZ
 - Good Neighbor Brochure legal status and need to clearly label its official intent as authorized in ordinance (then can distribute around town)
 - Meeting with Selectboard Feb. 6 to report and receive any concerns

- 1:20 Former “Rural Growth District B” (along north side of Route 17 from Watson Heights to Tilton Pond)
- Was removed in 2003 Comp Plan, suggest we bring back with fresh look at boundaries, suggest naming “Town Center District” – can be different than Village District
 - Requesting Selectboard to clarify that making any recommended changes to Comp Plan is within our scope (could also address inconsistencies)
 - Affordable Housing Density Bonus – required in growth districts (we could opt to apply townwide)
- 1:30 Public Input
- Public Hearing Date(s) – Feb 26 Planning Board Meeting with Feb 27 Storm Date? (cancel Feb 26 noon meeting if plan made Feb 11?)
 - Do we need to do another on-line opinion survey on additional issues? (could run thru early March)
 - Would need info summary by Feb 20
- 1:45 Issues for January 29
- Steep Slope Harvest/Clearing Standard (Joe S.)
 - Town Center District Boundaries and Purpose, Dimensional & Other Requirements
 - Subdivision Standards, Manufactured Housing Parks
 - Road Standards
 - Event Venue, Mass Gathering Standards
 - Anything else still hanging...
- 1:55 Roundtable Check-in - Anything Else?
- 2:00 Adjourn

Fayette Joint Land Use Committee
Meeting #7 – January 8, 2024 – Notes (Draft)
Decisions and commitments in Bold Italic

Members Attending: Belinda Bothwick, Mary Ann Hayes, Roy Krout, Joe Longtin, Joe Stevenson
Advisors Attending: Don Dostie, Dan Rooney, Brent St. Clair
Staff Attending: Jessica Leighton
Guest Attending: Debbie Crosby

Welcome and Review of Agenda

The meeting began at 6PM and ***it was agreed to proceed with the published agenda.*** Debbie Crosby was welcomed and shared that she was just attending to listen with no particular issue of interest.

Follow-Up from Dec. 11 Meeting

Meeting Notes: ***The notes from December 11 were approved as presented.***

Survey Results and Open House Debrief

All agreed that we received valuable survey input with 124 responses and that the event was a success. Mary Ann thanked everyone for the good team effort, especially dealing with the postponements.

The public input was reviewed and discussed, with resolution as follows:

Setbacks and Well Drilling Notification

Front Setback – ***agreed to reduce to 50' in line with survey results.***

Side/Rear Setbacks – Despite majority favoring, issues would likely arise with mortgage lending inspections. Term easements were also discussed as an option ***but it was decided best to avoid the waivers due to problems future owners would inherit and just do the functional variance for odd lots*** (pending follow-up discussion with Don scheduled for Jan 16, 6:30 over zoom).

Front Outbuilding Waiver – ***It was agreed to allow only if no practical alternative exists***, noting that it is the small lots often with shorefront setbacks that run into the need for this. The group then discussed the size limit and ***agreed that a maximum of 200sf of building aerial footprint (typically defined by eaves) could intrude into the front setback area.*** The building could be larger but only that much could intrude. The 200sf size is the threshold for needing a Fayette building permit and for meeting MUBEC building code requirements (elsewhere). We can try it and learn from experience if we need to change it down the road. Lot coverage limits will also be in effect.

Small Roadside Dependent Structures – Trash bins and farmstands were discussed with more nuances discovered so ***definitions will have to be carefully constructed.*** Don shared that after 40 years a structure in a ROW could gain some adverse possession rights so calling them temporary is important. ***It was agreed that dumpsters were not to be included and all three would be far enough back to be out of the road drainage system. Farmstands should have a safe place for people to get off the road. After 6 months of discontinued use, structures should be removed.***

Well Drilling Notification and Setback – Survey results were inconclusive as was the committee's feeling. Some felt notification was valuable even with the town having no regulation. Others felt we should just stay out of it and let the State rules apply. Mark had weighed in that he thought notification would prepare neighbors for the drilling rig showing up and taking them by surprise and would be worth it just to prevent those shocks. ***The decision was to try a "courtesy notification" to all abutters regardless of the size of the lot, advising abutters to contact the applicant and/or the well driller (or excavator if a dug well) to discuss any concerns.*** The potential burden on town staff was discussed. Mark and Jessica estimate perhaps 6/year. They believe it would be worth it just to avoid surprises and increase the chances that all septic systems were properly identified. Dig safe is another consideration.

Lighting and Signs

While proposals were supported, many comments pleaded that we prohibit all internally lighted signs. While there are no current requests but recognizing that digital message boards could be useful at the town office or school, ***it was decided to continue prohibition of internally lighted signs but allow digital message boards with dark backgrounds for governmental information purposes.***

For existing private lighting, we would grandfather existing fixtures but expect people to replace them with compliant fixtures. Our standard non-conforming language would allow existing fixtures to be replaced as long as they are not more non-conforming so we will need explicit for how lighting will be treated. Approach through education. ***We would prohibit glaring illumination impacting other property that could be addressed through complaints.*** Jess is open to this approach. She may take time to document existing bright security lighting to establish existing conditions.

For ROW policing, it was agreed to start with asking MaineDOT to pick up contractor signs when they build up and see how that works before considering having the town take this over.

Noise

It was agreed to keep the 55dbA/45dbA standards as the default for Site Plan Review. The applicant can supply actual data if they have it to justify higher limits. ***It was agreed not to include any residential noise standards in the land use ordinance but educate via the Good Neighbor Standards brochure.***

Good Neighbor Standards Brochure – Legal Authority

Jess and Mary Ann discussed this with Mark. In order for the brochure to be anything official published with the town's name on it, even if unenforceable, the essence of the contents will have to be approved at a town meeting (or via secret ballot). It was suggested that the contents of the brochure (e.g. night time quiet hours) be included within licensing requirements authorized in a short term rental ordinance. The brochure could be distributed to everyone but would be enforced for short term rental license holders and that would be its authorized purpose. Mary Ann, Jess and Belinda will be meeting with Mary Denison to review this soon. Belinda noted the working group's intention of going with the license and friendly brochure was to be less onerous than an ordinance approach. It was noted that while turning lights off might be appropriate for guest education, they have no control over fixtures.

Roads and Steep Slope Protection

Noting comments with concerning opposing viewpoints, the group agreed to go with the majority survey results and continue to allow 1-2 family residential structures that lack emergency access. The lack of emergency access will be noted on the building permit.

Regarding limiting tree cutting on steep slopes, a consultation with the Maine Forest Service is required. Joe S. explained that state regulations cover shoreland zoning and clearcuts. The Town may have another standard following consultation without taking over the shoreland zoning enforcement. Mark had indicated the Selectboard would be against taking over responsibility for enforcing timber harvesting after working hard to shift that responsibility to the state. Joe is awaiting a call back from MFS and will keep us posted. It was noted that both Mt Vernon and Wayne have similar standards.

Site Plan Review Process

The proposed thresholds were supported and will be utilized. A majority opposed having short term rentals constitute a change-of-use that would trigger a need for site plan review so that will be dropped. Mary Ann further suggested that any use with a state license be required to file it with the town as a condition of their permit before occupancy for that use. This way the town will be aware of businesses that are licensed. It was noted that Camps Vega and Winnebago rent their facilities for weddings and other events and the town has no knowledge unless a caterer has filed a license request. This needs to be considered as the town steps up to regulate smaller event businesses.

Specific Use Performance Standards

The public input was supportive of the proposals. Regarding events the group discussed the distinction for what belonged with the Planning Board vs Selectboard. ***The group agreed that mass gatherings and events were not the Planning Board's job but setting up the physical site that hosted them might be.*** Reneé Keen has offered to help with event standards.

Short-Term Rental Requirements

There was widespread support for the proposed licensing requirement and a majority agreed with exempting word-of-mouth rentals. The working group will revisit whether inspections are necessary as some people opposed that aspect. It does now appear that this will be a separate ordinance.

Remaining Work and Proposed Schedule

Mary Ann outlined the remaining work to be done and a proposed schedule. ***The group agreed to add a 6pm meeting on January 29 and consider when the best time for a public hearing would be in early March to be decided by the January 22 meeting.*** Weeknight or Saturday morning? Storm dates needed for all. Don advised that there were active legislative proposals regarding statutory changes in subdivisions, planning, zoning and affordable housing of which we need to be aware.

- A. Ordinance Organization
 - a. Propose pulling Subdivision and Solar Farm Ordinances into LUO
 - b. Should Shoreland Zones be an overlay district? All SZ provisions could be included in one section clearly only applicable to those zones.
 - c. Draft one common review process applicable to SPR and Subdivisions
 - d. Clarify abutter notification process, trigger for public hearings
- B. Review of Shoreland Zoning Districts Team: Mary Ann, Jess, Joe S, Rob (mapper)
 - a. Applicability – narrative and map agreement
 - b. Distinctions between our zones and Chapter 1000 requirements
 - i. Wetland Protection District – is it any different than Shoreland District? Which wetlands define boundaries?
 - ii. Stream Protection District – clarify basis and extent
 - c. Review District Names
- C. Residential Minimum Lot Sizes & Densities
 - a. Confirm how many units of what type (accessory v equal)
 - b. Ensuring we are compliant with LD 2003
 - c. Any limits on future conveyances? Do we care if units on same lot are sold separately as long a slot is not divided?
 - d. Do we require a single shared driveway?
- D. Multi Family Dwellings, Subdivisions, Mobile Home Parks

Calendar

January 22: First cut on all of the above

January 29: 2nd cut

February 12: Complete, send draft to Mary Denison for Legal Review, Prepare 2nd Summary of Proposals, potentially 2nd opinion survey if new issues need input

February 26: (Mary Ann away Feb 21 – Mar 6) Review legal comments

By March 11-12?: Public Hearing co-hosted by JLUC and Planning Board

Extra meeting week of March 18?

March 25: Final meeting to complete recommendations

Adjournment

The meeting adjourned at 8:05 PM.

**DECD HOUSING OPPORTUNITY PROGRAM MUNICIPAL LAND USE AND ZONING ORDINANCE RULE
(Effective 7/1/24)**

FAYETTE IMPLICATIONS AND RECOMMENDATIONS (Draft of 1/21/24)

1. **ACCESSORY DWELLING UNITS (ADUs) must be allowed on any lot where a single-family home is allowed if they can adhere to sewage disposal adequacy (LPI), potable water (well test) and dimensional requirements (e.g. setbacks and lot coverage ratios). They may be internal, attached or detached. ADUs must meet dimensional requirements but do not count toward density limitations.**
 - a. **DECD sets 190 square feet as the minimum size for an ADU. We can set a maximum size in square feet or in relation to the principal residence.**
 - b. **We may stipulate that only one ADU is allowed per lot.**
 - c. **We may stipulate that a principal residence and its ADU (or a 2nd unit without its own conforming lot) may not be separately conveyed.**
 - d. **We may not add parking requirements for the ADU.**
 - e. **We must allow an ADU on a non-conforming lot if addition of the ADU does not increase its non-conformity.**
 - f. **We may stipulate that an ADU may not be offered for short-term (under 30 days) rental.**
 - g. **ADUs may not be on wheels. If we allow Tiny Homes on wheels, we need to define them separately.**
2. **At least TWO NEW DWELLING UNITS must be allowed on any lot in the RURAL, SHORELAND or WETLAND PROTECTION DISTRICTS if they can adhere to sewage disposal adequacy (LPI), potable water (well test) and dimensional requirements (e.g. setbacks and lot coverage ratios). They may be within one structure or separate structures. If there is an existing dwelling, 2 more may be added (one within or attached, one detached, or one of each).**
 - a. **If there are 2 dwelling units on a lot (existing or new), we do NOT have to also allow an ADU.**
 - b. **We must allow EITHER a second principal dwelling unit or an ADU on any lot residential uses are allowed but do not have to allow both. Town choice.**
3. **UP TO FOUR DWELLING UNITS must be allowed on any lot in the RURAL GROWTH DISTRICT if they can adhere to sewage disposal adequacy (LPI), potable water (well test) and dimensional requirements (e.g. setbacks and lot coverage ratios). We should not assume that such a configuration would necessarily be on a minimum sized lot, but if they could meet the water, wastewater, and dimensional requirements, it would be permissible.**
4. **If more than one dwelling unit has been constructed on a lot as a result of this rule, the town may prohibit any further additions. If there are 2 new units in the Rural Growth District in 2024, we do not have to allow a third or fourth unit later on to be compliant with the rule; they have to propose them all at once. We of course may allow more later on (but could require subdivision review).**
5. **The town has discretion over whether any dwelling unit constructed under this section is a dwelling unit or an accessory dwelling unit. An ADU must be tied to a principal dwelling unit. The main distinction relating to the housing rule is that ADUs do not count toward density requirements and have a minimum size of 190 sf. Otherwise the town decides. This will**

require some thought but could occur after the ordinance is enacted if left to CEO discretion informed by owner preference.

6. The town may establish a prohibition or an allowance for lots where a dwelling unit in existence after the implementation date is torn down and an empty lot results.
7. We may establish land area per dwelling unit as long as requirements do not increase per unit.
8. In the RURAL GROWTH DISTRICT, assuming all other requirements are met, if an applicant certifies that the units will have restrictive covenants to remain affordable (as rentals or owner-occupied) for at least 30 years, they would be eligible for an AFFORDABLE HOUSING DENSITY BONUS of 2.5 times (default is rounded down) the base density normally allowed. The town can decide to increase the density bonus.

FAYETTE POLICY OPTIONS AND SUGGESTED APPROACH:

1. ADU MAXIMUM SIZE CHOICES:

- a. 1000 sf of living area
- b. No more than 50% of principal dwelling unit living area
- c. No larger than principal dwelling unit living area
- d. Do not set any maximum size
- e. Do we allow swapping of designation between principal dwelling and ADU?

2. TINY HOMES ON WHEELS:

- a. If we allow them, need to define and regulate separately from ADUs. Recommend we allow as second unit in every respect except ADU definition as prescribed by DECD

3. HOW MANY?

- a. Suggest limit to one ADU per lot
- b. Suggest limit to two units per lot (either 2 principal units or 1 principal plus 1 ADU) without going to subdivision or site plan review (apply in all districts)

4. CONVEYANCE: Recommend we do not allow any dwelling units or any structures sharing a lot to be separated for sale unless they have gone through subdivision review

5. SHORT-TERM RENTALS

- a. Do not allow ADUs to be Short-Term Rentals (recall this just means they cannot be commercially advertised for short-term rental, word-of-mouth OK; also the principal dwelling unit could be offered for STR).
- b. If 2 regular dwelling units on a lot, only allow one unit on a lot to be Short-Term Rented at a time
- c. More than one unit on a lot may be permitted for STR if approved as a lodging accommodation under site plan review

6. OWNER OCCUPANCY

- a. Require that the owner live in one of the units if ADU allowed on lot?
- b. Recommend we do not require owner occupancy (protected by limit of 1 STR/lot)
- c. If owner occupancy required, will need to define how much time spent there, challenging to enforce

7. LOT DENSITIES

- a. Suggest we set to 2 units/minimum lot size to comply with reality of Housing Law except in Shoreland District
- b. Alternate approach: We delete density requirements, go with up to 2 units/lot outside of Site Plan or Subdivision Review and leave rest to judgement of Planning Board and LPI

SECTION 5. TABLE OF LAND USES – Proposed amendments for 1-22-24 JLUC Meeting

All land use activities, as indicated in table 1, land uses, below, shall conform to all of the applicable land use standards contained in this ordinance. The district designation for a particular site located in the rural or rural growth zone shall be determined from the official land use map. For the ShorelandLakefront, Stream Protection, Resource Protection, and Wetland Protection zones the district designation for a particular site shall be determined by a measurement taken from the ground horizontally to the normal high-water line of the protected resource.

ABBREVIATIONS FOUND IN LAND USE TABLE: Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards)
Check with Table of Contents to find applicable provision(s)
No - Prohibited
PB - Allowed with permit issued by the Planning Board
CEO - Allowed with permit issued by the *Code Enforcement Officer*. Numbers in parentheses refer to the footnotes at the end of the Land Use Table.
SB - Allowed with permit issued by the *Fayette Select Board*
LPI - Licensed Plumbing Inspector - permit may be required.
N/A - Not applicable.

The numbers 1-86 which may follow the word "KeyNotes" refer to the information, exceptions or provisions described at the end of the Land Use Table section.

Abbreviations:

RP - Resource Protection
SP - Stream Protection
WP- Wetland Protection
SD - Shoreland-Lakefront District
RD - Rural District
~~RG – Rural Growth~~
VD – Village District
TC – Town Center District (placeholder, not in table yet)

After reviewing the Land Use Table, the applicant is advised to read the text of the specific provision(s) that apply.

TABLE 1. LAND USES (see numbered notes below as indicated)

Table 1. Land Uses (#1)						
	District					
	RP	SP	WP	SD	RGVD	RD
<u>Accessory Dwelling Unit (#8)</u>	<u>PB</u> <u>(#3)</u>	<u>PB</u> <u>(#3)</u>	<u>PB</u> <u>(#3)</u>	<u>CEO</u>	<u>CEO</u>	<u>CEO</u>
Accessory Structures	PB (Key #23)	PB (Key #23)	CEO (Key #23)	CEO	CEO	CEO
Agriculture	PB	CEO	CEO	CEO	YES	YES
Auto Repair and Service	NO	NO	NO	NO	PB	PB
Cemeteries	NO	NO	NO	NO	PB	PB
Campground	NO	NO	PB	PB	PB	PB
Clearing or Removal of Vegetation for purposes other than Timber Harvesting	PB (Key #24)	CEO	CEO	CEO	YES	YES
Commercial - Large	NO	NO	NO	NO	PB	PB
Commercial - Resource	NO	PB (Key #23)	PB	PB	PB	PB
Commercial - Small	NO	PB (Key #23)	PB	PB	PB	PB
Communication Towers	PB	PB	PB	PB	PB	PB
Seasonal Conversion	PB	PB (Key #67)	PB (Key #67)	PB (Key #67)	CEO	CEO
Culverts	PB	PB	PB	PB	CEO	CEO
Emergency Operations	YES	YES	YES	YES	YES	YES
Essential Services	PB	PB	PB	PB	YES	YES
Family Burial Plots	NO	NO	PB	PB	PB	PB
Fill & Earth Moving (greater than 10 yd ³)	CEO	CEO	CEO	CEO	YES (Key #34)	YES (Key #34)
Fill & Earth Moving (less than 10 yd ³)	CEO	CEO	CEO	YES	YES	YES
Fire Prevention Activities	YES	YES	YES	YES	YES	YES
	District					
	RP	SP	WP	SD	RG	RD
Forest Management	PB	PB	PB	PB	CEO	CEO
Government & Institutional	NO	PB	PB	PB	PB	PB
Home Occupation	CEO	CEO	YES	YES	YES	YES

Commented [MAH1]: This table still misses several uses in the Chp 1000 Guidelines and has not yet been proofed for correct permitting official. Do we add them all in here or make this a short list for the non-SZ districts and have the detailed list copied from Chp 1000 in a separate SZ Article for the 4 SZ districts followed by the standards that apply there only?

Individual Campsite	PB	CEO	CEO	CEO	CEO	CEO
Junkyards & Auto Graveyards	NO	NO	NO	NO	NO	NO
Marinas	NO	NO	NO	PB	N/A	N/A
Mineral Extraction	NO	NO	NO	NO	PB	PB
Mineral Exploration	NO	NO	NO	NO	YES	YES
Mobile Home Parks	NO	NO	PB	PB	PB	PB
Multi-Unit Residential	NO	NO	NO	PB	PB	PB
1 & 2 Family Dwellings	PB (Key #45)	PB (Key #23)	PB	PB	CEO	CEO
Parking Areas	NO (Key #56)	PB (Key #32)	PB	PB	CEO	CEO
Permanent Pier or Dock	NO	PB	PB	PB	CEO	CEO
Rear Lot	NO	NO	NO	NO	YES	YES
Recreation – Active	PB	PB	PB	PB	PB	PB
Recreation – Passive	YES	YES	YES	YES	YES	YES
Road & Driveway <500ft	PB	PB	PB	PB	CEO	CEO
Road & Driveway >500ft	NO	PB	PB	PB	PB	PB
Short-Term Rental (existing unit) (#8)	CEO	CEO	CEO	CEO	CEO	CEO
Subdivisions	PB	PB	PB	PB	PB	PB
Temporary Pier or Dock	CEO	CEO	CEO	CEO	N/A	N/A
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

Commented [MH2]: Chapter 1000 (p1) makes municipal regulation of piers and docks beyond high water line optional. Do we wish to regulate them or prefer not to?

Commented [MH3]: Why are temporary N/A outside SZ but permanent require permit?

NOTES:

1. A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 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:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

~~KEY:~~

- 1. 2. In RP not allowed within 75 feet horizontal distance of the *normal high-water line* of *great ponds*, except to remove safety hazards.
- 2. 3 Provided that a variance from the *setback* requirement, if required, is obtained from the Board of Appeals.
- 3. 4 If more than 100 cubic yards of earth moving need CEO approval.

Commented [MH4]: Seems odd to call this a "key". They are all notes.

4. ~~5~~ Single family residential structures may be allowed by special exception only in accordance with the provisions of **Article 6 Section 6 (E)**; two family residential structures are prohibited.
5. ~~6~~ Except when area is zoned for Resource Protection due to floodplain criteria in which case a permit is required from the Planning Board.
6. ~~7~~ Licensed Plumbing Inspector permit may be needed.
- 6-8. Only one unit at a time per lot may be offered for short-term rental. Accessory dwelling units may not be offered for short-term rental. Town license may be required.

Commented [MAH5]: Need to check all references after rewrite

SECTION 6. DIMENSIONAL REQUIREMENTS

All buildings and structures shall conform to the dimensional requirements set forth in this section, which are minimum requirements, unless otherwise noted. Dug or drilled wells and septic systems must be setback at least 10' from all property boundaries. Developments undergoing subdivision or site plan review may be allowed reduced standards

A. Table of Dimensional Requirements (notes #7 and #9)						
	Resource Protection	Wetland Protection District	Stream Protection District	Shoreland Lakefront District	Rural District	Rural Growth Village District
Lot Size (notes #1 and 7)	1 acre	2 acres	1 acre	1 acre	2 acres	1 acre
Road Frontage (note #8)	150 ft	200 ft	150 ft	150 ft	200 ft	2100 ft
Road Setback (note #3)	75 ft	75 ft	75 ft	75 ft	75 ft	75 ft
Side Setback	15 ft	15 ft	15 ft	15 ft	25 ft	15 ft
Rear Setback	15 ft	15 ft	15 ft	15 ft	25 ft	15 ft
Maximum Building Height (note #4)	See note #4	See note #4	See note #4	See note #4	35 ft	35 ft
Minimum Land Area Per Dwelling Unit (note #7)	1-acre N/A	21 acres	1-acre N/A	1 acre	2-1 acres	1/2 acre/ acres
Shore Frontage (note #2)	200 ft	200 ft	200 ft	200 ft	N/A	N/A
Shore Setback (note #5)	250 ft	100 ft	75 ft	100 ft	N/A	N/A
Maximum Impervious Area (note #6)	20%	20%	20%	20%	35%	35%-40%

Commented [MAH6]: This district is treated like the Rural District for base lot size

Commented [MAH7]: DEP requires 40,000 sf but with lack of surveys this gives us a buffer with imperfect data

Commented [MAH8]: Thinking adding an ADU is enough in this sensitive, crowded district.

Commented [MH9]: To comply with Housing Rule and still allow possible room for Affordable Housing Density bonus if all other requirements may be met.

Commented [MH10]: Suggest growth districts should allow greater developed area intensity. But keeping it conservative.

NOTES

- The minimum lot size for any Commercial, Institutional, or Government structure located in a ~~Shoreland Lakefront~~, Stream Protection, ~~Wetland and or~~ Resource Protection Districts shall be 60,000 square feet.

Commented [MH11]: Makes no sense to have reduced requirement in Wetland Protection District

2. The minimum shore frontage of any Commercial, Institutional or Government structure located in a ~~Shoreland~~Lakefront, Stream Protection, Wetland Protection and-or Resource Protection Districts shall be 300 feet.

3. Road Setback Details:

- a. 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. A waiver may be requested of the permitting authority for up to 200sf 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.

4. ~~Please pay particular attention to this note since requirements may affect your property:~~Height Limitation Details::

- a. The maximum height of any portion of a structure located from 25 to 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.
- b. The maximum height of any portion of a structure located from 75 to 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 Article 2, Section 3 A 1 (l)~~(e)~~© in the Land Use ordinance.
- c. The maximum height of any portion of a structure that is from 100 to 250 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 35 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 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 2, Section 3 A 1 (c, d) in the Land Use ordinance.
- d. Height requirements do not apply to chimneys, towers, and agricultural structures.
- e. In Rural & ~~Rural Growth Village Districts~~ building height in excess of 35 feet requires Planning Board approval.
- f. In all Districts, building height is measured from the downhill side of the building to the roof peak.

5. All water body setbacks are measured from the normal high waterline and for wetlands from the upland edge.

6. 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 building, site plan or subdivision permit.

~~7. Accessory Dwelling Units (ADUs) will be reviewed pursuant to Title 30 A-MRSA §4364-B and any subsequent rules.~~

7. Only two dwelling units, or one dwelling unit and an accessory dwelling unit, may be allowed on a single lot without Planning Board Site Plan or Subdivision 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 Site Plan Review as outlined in those ordinance sections.

8. See Rear Lot exception in B.8. below.

9. A variance from Dimensional Requirements may be granted by the Board of Appeals if the applicant meets the Practical Difficulty Test requirements (reference appeals section).

Commented [MH12]: We should be able to delete this. We'll add compliance with State Housing Laws and Rules in the preamble.

Commented [MH13]: In just the growth districts (required) or also in the Rural District? SZ?

Commented [JL14R13]: I think it COULD be both if we also say: "preference will be given to applications in the Rural Growth Zone"

Draft 1/21/2024

Short Term Rental Licensing Ordinance

SECTION I – GENERAL

Title: This Ordinance shall be known and may be cited as the “Short-Term Rental Licensing Ordinance of the Town of Fayette, Maine”.

Authority: This Ordinance is enacted pursuant to the enabling provisions of Article VIII, Part 2, §1 of the Maine Constitution, the provisions of Title 30-A MRSA, §3001 (Home Rule).

Purpose: The purpose of this Ordinance is to require the disclosure and licensing of short term rentals operating in the town of Fayette. Fayette residents prize the rural nature of their town. Protection of natural resources and wildlife habitat, and preservation of our peaceful environment are key values that guide the town’s development. This ordinance is designed to balance the desire of property owners to engage in short term rentals with the desire of residents to preserve the peace and unique character of their neighborhoods; to prevent degradation of natural resources and habitat; protect the safety of visitors and residents alike, and to support **new state housing laws should we site the law?** designed to increase **sustainable and affordable** housing opportunities.

Applicability: The provisions of this Ordinance shall apply to all of the following at which overnight accommodations are publicly advertised to rent for a tenancy of less than thirty (30) consecutive calendar days:

1. Permanent single family, duplex or multi-family dwelling unit(s)
2. A singular campsite
3. A bunkhouse advertised either separately from or along with its accompanying dwelling unit

The following are excluded from the provisions of this Ordinance:

1. Short term rentals that are only advertised by word of mouth (no commercial or public advertisement) to friends and family
2. Multiple campsites, regardless of whether State of Maine licensing requirements need to be met.
3. Campgrounds
4. Hotels and motels
5. Bed and Breakfasts, Inns
6. Dormitories
7. Congregate living facilities

NOTE: Although campsites of up to four on one property may not need to meet Maine licensing requirements as a campground, Fayette property owners shall refer to **Section XX: Site Plan Review**, in the Town of Fayette’s Land Use Ordinance.

Effective Date: The effective date of this Ordinance shall be **January 1, 2025**.

Conflicts with Other Ordinances: In the event of a conflict between the provisions of this Ordinance and any applicable State or local law, ordinance, or regulation, the more restrictive provision shall be imposed. The issuance of any license pursuant to this Ordinance shall not relieve the owner of the obligation to comply with all provisions of any other municipal ordinances or any other applicable laws or regulations pertaining to the use and occupancy of the property on which it is located.

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

Availability: A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost to be charged to those making the request. A copy of this Ordinance shall also be posted on the Town of Fayette's website.

Amendments: An amendment to this Ordinance may be adopted by a majority vote of the legislative body.

Administration: The license and registration process shall be administered by the Code Enforcement Officer or other persons as designated by the Select Board.

Appeals: Initial denial or revocation of a Short Term Rental License may be appealed to the Select Board within 30 days of such determination.

Application Fee: All applications for a Short Term Rental License shall be accompanied by fees as set by the Select Board.

All fees are nonrefundable and shall be paid to the Town of Fayette. If the application is denied, and no appeal is filed within 30 days, [the applicant may request the fee be refunded]...[the applicant will receive reimbursement for the fee paid.]

The town will charge a penalty fee not to exceed double the license fee for properties that are not licensed by February 1 of the term. Penalties will not apply to licenses applied for after February 1 for newly established Short Term Rentals.

SECTION II – DEFINITIONS

Accessory Dwelling Unit (ADU): Need to fill in what we nail down as final definition.

Bunkhouse: A detached bedroom having no plumbing; accessory to a single family dwelling for the temporary accommodations of guests of the property owner while the owner is an occupant of the principal dwelling.

Campground: any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters. (took definition from ch.1000)

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.

Commercial Lodging Facility: 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. Short-term rental of up to one residential dwelling unit on a lot at a time is exempted from this definition.

Dwelling Unit: take from our ordinance – make sure we aren't proposing an amendment

Short Term Rental (STR): A dwelling unit, campsite, or bunkhouse that is rented to renters/guests for a period of less than 30 consecutive days.

SECTION III – LICENSING CRITERIA

License: No Short Term Rental shall be advertised, rented, or operated without first obtaining a Short Term Rental license, to be renewed on an annual basis.

No more than one short term rental may be rented at one time on each parcel of land. Applicants may obtain a license for multiple short term rentals, but may not rent them simultaneously under this license agreement. Simultaneous rentals are considered Commercial Lodging Establishments and must go through Site Plan Review as outlined in the Fayette Land Use Ordinance.

An accessory dwelling unit constructed after the date of the enactment of this ordinance may not be utilized as a short term rental and shall not qualify for a license.

Upon receipt of an approved license, a copy of said license, with emergency contact information, shall be provided to all direct property abutters.

The license to operate terminates upon sale of the property.

Registration: Application materials are available on the town website and in the town office. Forms must be submitted, together with the license fee, by January 2 for the year in which it is due. All licenses expire on December 31st of each year. Registrations and accompanying fees for the next year will be accepted beginning December 1 for the subsequent term.

In addition to the application, the following attachments must be submitted before the application can be determined to be complete:

- a. A copy of the plot plan showing the location of the short term rental, location of all parking, and location of the leach field associated with the dwelling unit.
- b. Floor plan drawing showing the general layout of the rental. This floor plan must show bedrooms, hallways, emergency exits, and the locations of carbon monoxide detectors, smoke detectors, and required fire extinguishers.

- c. Copy of anticipated advertisement for property with occupancy and parking limits and link to Good Neighbor Brochure standards.

Performance Standards:

1. The following life safety measures shall be met:
 - a. Smoke detectors must be installed in every bedroom, in the hallway outside the bedrooms (if the bedrooms are on a second floor), in any basement area which heating systems may be installed, and in the “living room area,” if applicable.
 - b. At least one carbon monoxide detector must be installed on every floor.
 - c. Fire extinguishers must be provided, of the correct classification, near ovens, stoves, and any potentially flammable heating system.
 - d. A copy of the floor plan showing all exits must be clearly posted in each bedroom and next to the copy of the displayed license.
 - e. Life jackets matching boat occupancy limits shall be provided if any watercraft are made available for use.
 - f. Physical address will be visibly displayed on the property to direct guests and emergency personnel.
 - g. Training must be provided in the safe and responsible use of all appliances and utilities, including but not limited to gas stoves, gas grills, wood stoves, fireplaces, privies, septic systems, potable drinking water, composting systems, and fire pits.
 - h. Information must be provided on what to do if a smoke, carbon monoxide, or septic pump alarm sounds.
2. Dark Sky Compliant Lighting Fixtures
 - a. All outside lighting fixtures must be shielded to provide only essential lighting for safety and security. No illumination or glare may be directed upward or extend beyond the property boundary.
3. STR owners shall be responsible for complying with all applicable federal, state, and local statutes, law, ordinances, rules and regulations.
4. STR owners shall be responsible for ensuring that emergency contact information is clearly and conspicuously posted in the rental unit. *This shall include the names and 24 hour numbers and email addresses of the property owner and/or managers who can be at the rental within one half hour.*

The owner shall also be responsible for ensuring that the Code Enforcement Officer is given current emergency contact information for each STR. This information may be used by neighbors, and public personnel in the event of complaints or emergencies.
5. All STRs shall have access to adequate wastewater facilities, as determined by the designated Local Plumbing Inspector (LPI).
6. A copy of the “Good Neighbor Brochure,” or the contents within the brochure, must be included in the published advertisement, and clearly posted in all short-term rental units.

STR owners operating a campsite must document how they are providing this information to their guests. This brochure may be obtained from the Town Office and may be located in other places throughout town to aid in the education of the advertisement of the licensing program. If a brochure is not available at the time of license approval, the following standards must be clearly posted in each rental unit:

- a. Quiet hours in which voices, music or other noise must not be audible beyond the property boundary or on water bodies are in effect from 10PM to 7AM Sunday/Monday - Thursday/Friday, 11PM Friday - 7AM Saturday, 11PM Saturday to 8AM Sunday and 10PM Sunday to 7AM Monday). Exceptions are made for short-term necessary noises such as starting a vehicle, but they should be kept to a minimum.
 - b. Septic System Education: Septic systems are fragile and cannot handle materials other than human waste and toilet paper. All other sanitary waste must be discarded in the trash.
 - c. Pet Control:
 - i. All pets must be leashed or kept under voice command whenever outside.
 - ii. Barking must be kept under control.
 - iii. All pet waste both on and off the rental property must be collected and disposed of in trash containers.
 - d. Lake Protection:
 - i. No soaps or other liquids are allowed directly or indirectly in water bodies.
 - ii. Any watercraft and trailers supplied by tenants (owned or leased) must be inspected for plant matter with all removed prior to boats being placed in water bodies and again upon removal. If required, boats must be registered. Owners will supply tenants with registration requirements, instructions and regulations regarding “no wake zones”, operating while intoxicated and other applicable regulations.
 - e. Wildlife Protection:
 - i. Loons, ducks, turtles, and other inhabitants of water bodies must be enjoyed from a distance and not harassed.
 - ii. Licenses must be obtained for fishing and/or hunting.
 - f. Lighting: Outdoor lighting should only be turned on as needed to protect Dark Skies, discourage browntail moths from nesting, and preserve neighborhood serenity
 - g. Fireworks?
 - h. Trash/recycling management
 - i. Warning about brown tail moths, poison ivy, ticks (including the local, pretty widespread presence of anaplasmosis), cold water temperatures and any other potential hazards.
 - j. Medical or Fire Emergency Instructions. Calling 911 with property address, location of nearest medical facilities.
7. Trash containers must be provided for renters, and trash must be emptied at least once per week when unit is occupied.

8. Existing Subsurface Wastewater Disposal (Septic Systems): each short term rental unit must:
 - a. Have a septic design (HHE-200) on file at the Town Office; OR
 - b. If no design can be produced, the applicant must have the system pumped and inspected by a qualified pumper before the license will be issued. The results of the inspection shall be provided to the LPI. An inspection resulting in the discovery of a failing system will result in a denial of the license. Applicants may reapply once the system has been upgraded.
 - c. The Code Enforcement Officer may impose limits on how many bedrooms may be advertised based on the capacity of the existing system.
 - d. STR owners within the Shoreland, Resource Protection, Stream Protection, and Wetland Protection Zoning Districts must have the septic system pumped at least once every two years.
9. Parking: The advertisement for a short term rental must state how many parking spots the property will accommodate. Parking must be off the traveled way and shall not impede the flow of traffic.

Upon signature of application, the applicant is certifying that these requirements have been met.

Is this an entirely separate section? Complaints/Penalties/Revocation: Failure to comply with any requirement of this Ordinance shall result in the issuance of a “Notice of Violation” from the Code Enforcement Officer. If the violation is not addressed within the time period established in the Notice, the Code Enforcement Officer may require that the STR not be rented until the violation is corrected.

Violations discovered by the Local Plumbing Inspector shall be corrected in the most immediate time frame possible.

The license to operate a short term rental shall be revoked if there are (3) three complaints that are not resolved to the satisfaction of the CEO. The revocation may be reported to the advertising company, if applicable. The license may be returned to the applicant if resolution is reached but is not guaranteed. Past performance will be considered when an applicant reapplies.