

Fayette Joint Land Use Committee
Meeting #14 · April 18, 2024 · 9:00 AM – Noon
Starling Hall or via [Zoom Link](#)

AGENDA - DRAFT

- 9:00 Welcome and Review of Agenda
- 9:05 Meeting Record and Substantive Draft Adjustments to Verify
- Review & Approve March 25 Meeting Record
 - Wells – add requiring copy of drilling record
 - Signs – up to 12 SF (current SZ standard)
 - ADUs in LD go to PB not CEO
 - MH Parks only in VD
 - Wetland definition v Chp 1000
- 9:15 LU District & Dimensional Issues
- Height limit relaxation in VD & RD – standards?
 - Do we need Structure Expansion in LU Table?
 - Rear lot standards – need to review
 - Other?
- 9:30 LU Standards Issues
- Campsites stricter than dwellings? Other?
- 9:35 Variances
- Confirm Single Family Dimensional year-round only, ADU's?
 - Add Disability Garage Variance?
- 9:45 Definitions
- Dwelling Unit (Housing Law) v Residential Dwelling Unit (SZ)
 - Person
 - Water Body – existing or Chp 1000?
 - Skid Trails & Slash – Chp 1000 - do we need them?
 - Wildlife park – do we use anywhere?
 - See last page of PB Review Article for questions
- 10:00 Soil, Wetland and Habitat Submissions & Review Standards - standardize?
- 10:15 Review Procedure (CEO & PB)
- Permit Names (Building, Land Use, Development?)
 - CEO Review
 - Minor v Major Development Procedure & Requirements
 - Review Criteria - just one set for all permits (except subdivision perhaps)?
 - Sketch v Concept Plan Name
 - Where to put what
 - More USSF standards questions - setbacks, forest cutting, 800 sf exemption
- 11:10 Ordinance Organization & Other Business – posting for public hearing, legal review
- 12:00 Adjourn

Fayette Joint Land Use Committee
Meeting #13 – March 25, 2024 – Notes (draft)
Decisions and commitments in Bold Italic

Members Attending: Lacy Badeau, Belinda Bothwick, Mary Ann Hayes, Joe Stevenson
Staff Attending: Jessica Leighton, Mark Robinson (part)
Others Attending: Donna Barrett, Lori Beaulieu, Cale Ellis

Welcome and Review of Agenda

The meeting began at Noon, and ***it was agreed to proceed with the published agenda.*** Mary Ann shared that Joe Longtin had resigned from the Planning Board and therefore the JLUC. All agreed he had been a critical and reliable contributor and would be sorely missed.

Meeting Records and Corrections

March 12 Meeting Notes: ***The notes from March 12 were approved as presented.***

Feb 12 Decision Adjustment: Map R-5, Lot 5B is accessed by a private road rather than Route 17 as believed so will remain in the Rural District, which is what was shown on the Proposed Land Use District Map at the public hearing.

Comp Plan Amendment re Steep Slope Overlay District: Given that the decision was to go with a performance standard rather than overlay district, should the amendment that this “might be accomplished via a Steep Slope Overlay District” be removed? ***It was agreed to keep the language as it was optional and perhaps in the future would be a preferred method.***

Legal Update

Jess reported the following:

Mobile Home Parks: We may apply net residential density so we will.

Junkyards: We may not prohibit them townwide but may restrict them to certain districts. The group discussed whether or not they should be allowed in the Village District. Jess noted there may be two existing unpermitted junkyards. Do they have any grandfathering rights? She shared that why we do not enforce the State junkyard law is asked of her constantly and that it undermines people’s confidence in the town’s land use policies and ordinances. Lacy shared that with all these complaints, no one has asked the Select Board to create an article to fund the legal work necessary to take on this challenge. It was voted down perhaps 10 years ago the last time it was presented at a town meeting, which is why no action is being taken. ***After discussing the options, the group agreed to allow new junkyards (as of June 13, 2024) to be located only in the Rural District after receiving both Select Board and Planning Board permits. Existing uses in either the Village or Rural Districts will be eligible to be considered for a permit to become legally permitted or expand if they first obtain a Select Board permit. Jess will ask Denise to research the year in which the Ordinance first banned junkyards as an allowed use anywhere in town.***

Wording of Warrant Articles: Will the Comp Plan amendments and Land Use Ordinance amendments be combined or separate votes? We do know the rescinding of the Solar, Subdivision and Town Road Acceptance ordinances will be embedded within the Land Use Ordinance amendment question. ***Jess has asked Mark to follow up on this with Mary.***

Driveway and Roads Section Update

Mary Ann reported that the setback waiver applicability was that the driveway/road did not serve more than 2 lots, which means it now falls within our definition of driveway. Do we want to change that requirement to make it available to roads as well, which it is now? ***It was agreed to keep the***

setback waiver just for driveways. In the unlikely case an owner felt they needed a setback waiver, they could negotiate a boundary adjustment with the abutter or request a variance.

The group reviewed outstanding questions with Mark. **For driveway construction standards, the draft language was approved. For approval criteria, Section 6.B.6 was deleted. The Town installs to the ROW boundary and can make that much accessible for emergency vehicles. It will be recommended but not required that owners consider emergency vehicle access as they design and build their driveways.**

For Section 8.D.6, it was clarified that the Town provides the gravel needed to install a driveway entrance and pays for culvert maintenance after it is installed, including replacement cost. The driveway owner just must purchase the original culvert and have it delivered.

For Sections 9.G and 10.D, **it was agreed that both the Planning Board and the Road Commissioner should each certify the Certificate of Compliance.**

For Section B., there is no standard procedure for offering property to the Town for acceptance, so **this section will say to inquire with the Town Manager for the procedure to follow.**

Addressing Public Hearing Concerns

Gravel Pit Operation Noise: Cale Ellis noted that typical equipment may reach 80dB(A) so requested that this be set as a daytime noise limit for mineral extraction. Joe shared that one can sustain hearing damage with more than 4 hours of exposure to 75dB(A) so this did not seem like a good idea. It was agreed that natural resource based industries were appropriate in the Rural District but that residential neighbors also needed to be considered. Also that levels would be taken at the property boundary. Cale shared that noise traveled in unpredictable ways so could be difficult to know in any particular spot or weather condition. He wondered if a 30 day trial period would help assuage neighbor worries. This idea didn't seem fair to require for a business that could be risking a sizable business investment, but it was suggested that bringing recordings or videos of similar setups to the Planning Board meetings or public hearing might help with a frame of reference. The group discussed options for some time, and settled on the following wording: **The Board shall approve reasonable waivers for traditional natural resource based industries utilizing best management practices, such as sawmills and mineral extraction activities, with the understanding that these activities are appropriate in a rural area.**

Lighting: **The proposed edits in the Agenda Packet under Section were approved.**

Review of Proposed Performance Standards

Mary Ann shared the rationale of changing the proposed "Site Plan Review" to "Development Review" to more accurately reflect what is being considered, using a more common term. No one objected.

Courtesy Notice for Wells (and Septic Systems?): **The group quickly agreed not to include septic systems** but then spent some time discussing how the courtesy notification would work and if it indeed was worth the effort it would take. How much notice would a landowner or their agent need to give the CEO, who in turn would be providing a notification to abutters? Could the notice just be a phone call or email? What happens when someone's well has run dry and it's an emergency? Cale suggested posting a "Well Installation Planned" sign at the end of the driveway rather than taking the time to do a mailed notice. **Everyone liked this idea. It was agreed to try this idea, requiring 14 days' notice to the CEO by the landowner or their agent, but making an exception of earliest possible time for emergencies and allowing flexibility in the ordinance of how a Courtesy Notification process might work. The process will be described in the Admin Section**

and perhaps in Definitions. Regardless, this new process will take landowner and contractor education.

Individual Private Campsite: Section 5.B will only be applicable in SZ.

Signs: ***The proposed edits in the Agenda Packet under Section were approved. We will not get into mailbox regulations.***

Stormwater: ***DEP is working on establishing new hydrology modeling standards so we will remove all references to specific frequency storms and refer to DEP Best Management Practices throughout all sections of the Ordinance. It will still be a judgment call of the PB when an engineered design is needed rather than standard BMPs.***

Significant Wildlife Habitat: ***The changes to Section 18.C were approved as proposed except the C.3 referencing deer wintering areas will be retained in case any are found to be significant by DIFW.***

Landscaping and Buffers: ***The existing standards under Land Use Standards for Commercial & Industrial will be moved to Development Review. The existing Subdivision Standards will be retained. Mary Ann will still look for opportunities to cross-reference but may run out of time.***

Building Standards: Section 22 will be retitled "LIFE SAFETY OCCUPANCY STANDARDS" and will be reworded ***No newly constructed residential structure may be occupied without obtaining a Certificate of Occupancy from the Code Enforcement Officer issued after finding that the structure meets NFPA 101 Life Safety Standards.***

Common Shoreland Access: ***Section 25 will be removed. The Subdivision Section covers what is required.***

The other proposed amendments were approved as presented based on earlier decisions, with several provisions being moved to different sections of the Ordinance.

Utility Scale Solar Standards:

Noting the existing standard would be almost impossible to meet, ***It was agreed to amend the first sentence of the Visual Impact approval standard to read: "Any USSF shall not have a significant detrimental effect on the scenic resources of the town or significantly degrade the scenic value from properties in the area."***

As the Soil Testing requirement is vague and there is no approval standard, Joe agreed to take a look at the language and propose improvements for clarity and effectiveness.

Other Business and Next Steps

The group agreed to meet again on April 18 at 9AM to do a final review of the entire ordinance before passing it on the Select Board for the final public hearing on April 30. Mary Ann will post drafts for review in the interim as they become available.

Jess will check with Mary Denison re: legal review timing.

Mary Ann will submit the Comp Plan amendments to the State for consistency review ASAP.

Adjournment

The meeting adjourned at 3:16 PM.

Article IV – Permit Requirements and Review Criteria

All applications shall be submitted to the Code Enforcement Officer, who will determine the level of review needed. Review levels are as follows:

A. Code Enforcement Review

B. Planning Board Review

- a. Planning Board Review shall contain two types of review, minor and major. The Code Enforcement Officer shall recommend what type of review to the applicant and Board, but the Board shall have the ultimate responsibility of determining whether an application requires minor or major review.

Commented [B1]: Make this 2. Under B. Also a. should be 1. Also suggest "The CEO shall recommend to the applicant and Board which type of review is required, but..."

Commented [MH2]: We're mixing PB and even BoA procedures in here.

Commented [B3]: Format issue – all the small letters should be numbers. Probably aware already...

Commented [MH4R3]: Let's get the content done first and then format. It could change and formatting is time consuming

Section 11. – Code Enforcement Review

A. Application 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, 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.
- d. Any aggrieved party may appeal the Code Enforcement Officer's decision or failure to act to the Board of Appeals. Appeal applications are available at the Town Office.
- e. A notice shall be mailed by first class mail to the applicant and abutters in order to notify them of the date, time, place and purpose of the public hearing. Only those abutters having property lines within two hundred fifty (250) feet of the proposed project site shall be notified, **unless the Code Enforcement Officer determines that the proposed project or use may affect properties further than 250 feet.**

Commented [B5]: There is no prior reference here to a public hearing. Is this for the BOA activity? If so, should lead in with "In the event an appeal is filed,..."

Commented [MH6R5]: I think this should just reference the Admin article where the Appeals info is and not repeat here.

B. Written Submission Requirements:

- a. Name, address, and phone number(s) of the owner(s), applicant(s), and any authorized agents.
- b. Property location including the Fayette tax map and lot number.
- c. Verification of right, title, or interest in the property.
- d. Receipt of the appropriate permit fee.
- e. Estimated cost of the proposal.
- f. Schedule of construction including anticipated beginning and completion dates.
- g. Plumbing and/or subsurface wastewater disposal application, if applicable.
- h. A written description of the proposed project.

Commented [B7]: I think this should be A., because chronologically occurs before current section A.

Commented [B8]: I imagine there is no reference to a Town form because this now applies to all permits, not just building permits. But could a. be "The CEO will provide info on any forms available for submission"? Or have this be a note?

- i. A scaled map showing the location, boundaries, dimensions, elevations, uses and size of the following: site, structures, setbacks, parking areas, roads, driveways, drainage ways, erosion and stormwater control measures, open space, landscaping, aquifers, buffers, and all water bodies. Drawn upon an aerial photo of the property with parcel boundaries shown (available from town office).
 - j. Any other information necessary to show that the proposal complies with the applicable provisions of this Ordinance.
 - k. The date any non-conformances were created (lots or uses).
- C. Site Inspections: The Code Enforcement Officer, Planning Board, and/or the Board of Appeals may conduct an on-site inspection of the proposed project site in order to obtain knowledge about the site and the surrounding area.
- a. Whenever the Planning and/or Appeals Board conduct a site inspection, appropriate public notice shall be provided.
 - ~~a.~~ Site visits are for gathering information, which should be read into the record at the next public meeting. No substantive discussions may be held or decisions made at a site visit.
- D. Review Criteria should be colon to be consistent The applicant shall demonstrate that the proposed use or project meets the criteria listed below.
- a. The application is complete, and the applicable permit fee has been paid.
 - b. The proposal conforms to all applicable provisions of this Ordinance.
 - c. The proposal will not result in water pollution, erosion, or sedimentation to surface waters.
 - d. All wastewater will be properly disposed of by the use of an approved treatment method.
 - e. The proposal will not have an adverse impact upon spawning grounds, fish, aquatic life, bird or other wildlife.
 - f. The proposal will conserve shore cover, vegetation, and visual quality, as well as actual points of access to inland waters.
 - g. Archeological and historic resources as designated in the Town of Fayette Comprehensive Pplan will be protected.
 - h. The proposal will avoid problems associated with floodplain development and use.
 - i. The proposal will maintain safe and healthful conditions.
 - j. The proposed use will be established and maintained in accordance with an approved erosion and sediment control plan.
 - k. Access to the site from existing or proposed roads is will be safe and adequate.
 - l. The proposed use will not cause or aggravate undue traffic conditions.
 - m. The proposed use will have adequate water supplies to meet the demands of the proposed use and for fire protection.
 - n. The proposed use will provide for adequate management of storm water runoff without adverse impact on the site, adjacent land, or water bodies.
 - o. The proposed use will not decrease the quality, or significantly decrease the quantity, of groundwater.
 - p. The proposed site design provides adequate buffer space and on-site drainage and landscaping to protect neighboring property from detrimental factors of the proposed development.

Commented [B9]: Include septic and wells?

Commented [B10]: This list omits the current reqmts for an abutter list, and the certification by the applicant that the info is complete and correct.

Commented [B11]: Make this 1., and the public notice statement 2. I really dislike a single item list!

Commented [MH12]: If we want to have this as generic instruction to all, should put in a separate section either here or in admin article, along with public hearing and abutter notification processes

Commented [MH13]: Should we make this the official list for all permit approvals? Worth checking this on Thursday.

p.g. Proposed land use activities will be managed to sufficiently protect neighboring property from detrimental impacts of the proposed development.

E. Conditions

- a. Upon consideration of the appropriate review criteria, the Code Enforcement Officer, ~~Planning Board, or Board of Appeals~~ may attach conditions to the requested permit if it finds it necessary to further the purposes of this Ordinance.
- b. In determining whether conditions are appropriate or necessary, the ~~Planning Board, the Code~~ Enforcement Officer and/or the Appeals Board shall consider the unique features of the site, off-site impacts, the surrounding area, the proposed use, and the proposed structure. A written finding of fact shall be created stating that unique features are found to exist and suitable conditions can be imposed that will allow the proposal to meet the purposes of this Ordinance. The conditions shall be listed on the permit and shall be made enforceable under this Ordinance.

Commented [MH14]: BoA does not approve permits so don't think they should be listed here. Also this should just be the CEO not PB

Commented [B15]: Is the Performance Bond language going to appear somewhere else, or be eliminated from the ordinance?

Commented [MH16R15]: It's in D&R and PB Review but could be here or in admin and referenced.

Section #2.- Planning Board Review

Article VIII. Planning Board Review *DRAFT of 4-17-24*

SECTION 1. PURPOSE

The purpose of Planning Board Review is to provide a process and standards for land use activities that are potentially more impactful than typical small-scale residential 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 approval from the Planning Board prior to being issued a **land use**, subsurface wastewater disposal, internal plumbing, or driveway permit:

1. All activities in the Land Use Table (**Article IV, Section 3**) requiring Planning Board approval
2. When the new development or use is expected to generate more than 50 one-way vehicle trips/day

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.

3. Any new, repurposed, or expanded commercial, industrial, or institutional development
4. 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
5. When more than two dwelling units will be located on one lot, regardless of whether a subdivision
6. When more than one dwelling unit or portion thereof, on a single lot, is offered for short-term rental simultaneously
Existing licensed summer camps, campgrounds and other non-permitted facilities that rent their property for use by others
7. New and existing commercial gravel and mineral extraction operations (*defined as removing 100 cubic yards or more of material in any 12-month period*)
8. 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: Planning Board Review is not required of the following land use activities::

1. agricultural production (*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. INITIAL REVIEW PROCEDURE

A. General Requirements

1. Coordination with Other Town Permit Requirements: Successful completion of the review process will include the approval of other necessary Town land use permits.
2. 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.
3. 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.
4. **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.
5. 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.
6. 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.
7. Applications Identical to **Development** Permit Application: To the extent that Town permit officials have already approved portions of the proposed development during the Planning Board Review procedure (e.g. an entrance design), a permit will be issued upon request of the applicant if the design does not change.
8. 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.
9. Applications filed more than 12 months from **Development** Permit Denial: After 12 months, any application will be treated like a new application.

B. CEO Review

The first step for an applicant is to submit basic information on a prescribed form available through the town office or web site to the CEO. Within 14 calendar days of receiving the application, the CEO will contact the applicant to schedule an interview to discuss the project and determine if it requires Planning Board Review. The appropriate fee will be collected. Guidance will be provided on information needed to complete a Preliminary or Final Planning Board Review Application. Any requests for waivers will be decided by the Planning Board via Preliminary Planning Board Review.

Commented [MH1]: This part will likely be covered in CEO Review Article and just referenced here. This section would pick up on where that leaves off if CEO determines application heads to PB.

To the degree time allows prior to the Planning Board meeting, the CEO will prepare initial findings and recommendations for the Board's consideration, including the following:

1. Classification as a Major or Minor Development
2. Potential impacts of concern requiring focused attention
3. Additional information needed at what level of detail to adequately review the proposal
4. If a Minor Development, whether the application package, together with recommended permit conditions, appears to meet the standards within this Ordinance and is ready for final Board action

C. Initial Planning Board Review

1. Attendance at Board Meeting. The applicant shall attend the Planning Board meeting to discuss the proposed development.
2. Initial Meeting Review Steps. At the meeting, the Planning Board shall:
 - a. Formally classify the Application as a Major or Minor Development
 - b. Determine whether the Application is sufficiently complete to initiate the review process for the purposes of bringing the application under the protection of Title 1, MRS §302. Major Developments will have an initial discussion with submission and review process requirements clarified to prepare for Preliminary Application submittal. The Initial Meeting will not be considered commencing the review process for purposes of bringing the application under the protection of Title 1, MRS §302.
 - c. Confirm that the activity is lawfully allowed in the District in which it is proposed with the Board's approval
 - d. Listen to the Applicant's description of the proposed activity and ask questions to understand what is desired and explore potential impacts
 - e. Identify any particular issues of concern, along with anticipated information needed to fully consider these concerns
 - f. Determine whether a site visit is necessary and how it will be scheduled
 - g. Indicate whether outside expertise is anticipated to be needed to advise the Board on technical information, discussing potential costs and timeline with the applicant
 - h. In consultation with the applicant, determine whether and when a public hearing and abutter notices shall be required in consultation with the applicant
 - i. Clearly outline all further steps needed for the review process, including those details delegated to the CEO to address between meetings.
3. Minor Development Actions. For Minor Developments, the Board may take any of the following actions at the initial meeting:
 - a. Approve the Application, with or without conditions
 - b. Deny the Application
 - c. Table the Application pending receipt of additional information, including that collected during a site visit if scheduled
 - d. Schedule a site visit and/or public hearing

- e. Make any other arrangements needed to move the process forward
- 4. Major Development Actions. For Major Developments, the Initial Review Meeting shall be considered the Concept Plan Review Meeting as outlined in Section 4 below.

SECTION 4. MAJOR DEVELOPMENT REVIEW PROCEDURE

A. Step 1. 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 Planning Board 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. Step 2. 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, analyzed for relevant drainage characteristics;
 - 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; and
 - 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. Step 3. 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. Board and Abutter Notification: Upon receipt of a Preliminary Application and all applicable fees, the Code Enforcement Officer shall mail one copy to each Planning Board shall notify by

Commented [MH2]: Here or in Admin or Review Procedure Articles?

certified mail the owners of all property abutting the proposed development. The notice will contain:

1. a brief description of the proposal before the Board;
2. the statement that the application is available for public inspection during Town Office hours;
3. the date, time and place of the Planning Board meeting at which the proposal will be discussed; and
4. advice that any request for a public hearing on the proposal should be made before or at this Planning Board meeting.

A copy of the notice will be kept in the applicant file with the names and addresses to whom it was sent, and a copy of the certified mail receipt. The applicant will be billed for the postage.

4. 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:

- i. Signed copy of the application cover sheet.
- ii. 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.
- iii. Name and brief description of proposed development.
- iv. Number of acres in the parcel and of the portion to be involved in the proposed development.
- v. Tax map and lot number of the parcel(s) involved.
- vi. 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.
- vii. 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.
- viii. The name, registration number and seal of the land surveyor, architect, engineer or similar professional who prepared the plan.
- ix. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- x. 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:

- i. 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.

- ii. 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.
 - iii. Description of parking needs, based on similar analysis.
 - iv. 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 (*see Section 7.3.D*) should be incorporated in the plan.
 - v. 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.
 - vi. A description of the location, extent, slope and vegetation to be used to absorb surface water runoff, as required in Section 7.3.D (*this may be incorporated in the erosion and sedimentation control plan*).
 - vii. If any new or improved road is proposed as part of the development, the applicant shall submit information as required in Article ?.
 - viii. 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 7.5.
 - ix. Description of the source of water for the project, including firefighting water source.
 - x. 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 7.2.D.
 - xi. 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 7.3.C of this ordinance.
 - xii. 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 7.4.C is met.
- b. Aerial photograph (one copy): Aerial photograph of the land, to a scale of not more than 100 feet to an inch, either marked or with an acetate overlay showing 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. For major developments, the Site Inventory and Analysis will already have included this information.

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:

- i. Location of soil test pits and elevation references used in Subsurface Wastewater Disposal System Design;
 - ii. 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;
 - iii. Location and size of culverts, direction of drainage paths and other elements of the Stormwater Management Plan.
 - iv. Location of areas referenced within the Erosion and Sedimentation Control Plan.
 - v. Location, extent and slope of vegetative buffer, with description of vegetation noted.
 - vi. Location of water supply.
 - vii. Location, description and visual rendering of proposed landscaping and buffering.
 - viii. Plans for pedestrian access and circulation, including accommodations for persons with disabilities.
 - ix. If any portion of the development contains land used for agricultural production, delineation of remaining portion of land available for agricultural use.
 - x. 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.
 - xi. Any other graphic information necessary to demonstrate the satisfaction of the requirements of Section 7 of this ordinance.
5. 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.
6. 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.
 - 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. The Board shall have notice of the date, time and place of the hearing given to the applicant and published at least 2 times in a newspaper of general circulation, with the first notice published at least 7 days before the hearing. An additional fee shall be charged to the developer to cover the costs of advertising.
 - 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 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. If the Board feels such an analysis is necessary, the Board shall choose the professional(s), obtain an estimate for the work, and notify the developer that the amount of the estimate must be paid to the Town of Fayette before any further consideration is given to the application. No work will be initiated until the developer pays the estimated amount to the Town. Following the completion of the work, the developer will be billed for any cost incurred over the estimate or will be refunded any remaining balance from the estimate. Refusal to pay for the professional assistance will result in automatic denial of the application.
- e. Nature of Preliminary Plan Approval: 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. Step 4. 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 (see Section 6.3.J above), 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 all standards within this Ordinance have been met, including but not limited to the following. 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.

Commented [MH3]: Reference Review Criteria?

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. Waterfront: The development will not reduce public access to the waterfront.
6. Nuisance and Aesthetic Standards:
 - a. 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.
 - b. 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.
 - c. 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.
 - d. 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.
 - e. 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.

- f. 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.
- g. Storage: Equipment, supplies and other items to be stored outside a building shall be arranged in an attractive fashion or shielded from public view.

7. Public Health and Safety Standards:

- a. Sanitation: The proposed development will manage its facilities and activities to prevent either unsafe public health conditions or safety concerns.
- b. 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.

1. Businesses subject to a State operating license will not begin operations prior to obtaining that license and providing a copy to the CEO.
2. 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.
3. 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.
4. 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.
5. 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
 - i. Description of the type, frequency and duration of events to be hosted or hours of operation
 - ii. Volume of guests and vehicles to be accommodated
 - iii. Event management plan, including qualifications and availability of on-site management personnel
 - iv. How neighbors and/or public will be notified of upcoming events and how to contact management during events if any issues arise
 - v. Plans for food and beverage services, including alcohol
 - b. Ancillary Facility Rentals (e.g. summer camps)
 - i. Above information as applicable
 - ii. Description of range and frequency of rentals
 - iii. Rules applied to guests
 - iv. How guests are managed and instructed in use of facilities and equipment (power boats, fire pits, emergency procedures)
 - v. 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

- a. 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:
- i. 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).
 - ii. 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: 1) Water Table contours under ambient conditions, and 2) 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.
 - iii. 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.
 - iv. 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).
 - v. 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.
 - vi. The aquifer characteristics including a detailed description of geologic materials, hydraulic conductivity and transmissivity, average daily, monthly, and annual extraction rates.
 - vii. A delineation of all wetlands within the project area using methods described in the "Corps of Engineers Wetlands Delineation Manual" (1987), as may be amended, together with a delineation of all wetlands to be disturbed, and a description of all proposed wetlands mitigation measures.

Commented [MH4]: In main section for every major development?

- f. Traffic:
 - i. 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.
 - ii. A statement of the estimated number (for the AM and PM peak hours) of all non-truck trips.
 - iii. 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.
 - iv. A reasonable projection of all anticipated routes (Town and State) of all vehicles transporting bulk or bottled water.
 - v. 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.
- b. 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.
- g. The Planning Board may require reimbursement at any time during the permitting process or during the term of the permit of costs reasonably incurred by the Planning Board or the Town for professional assistance necessary to evaluate the application or to determine compliance with any permit issued. The Planning Board will obtain a proposal from at least one qualified peer reviewer of its choice and notify the applicant or permittee of the expected charge prior to incurring the charge or charges. (Note: This is intended to cover costs associated with contracting any outside resources the Town or the Board may require, e.g., site evaluator during construction, hydro-geologist to interpret data, traffic engineer, landscape architect, noise consultant, lighting consultant, etc.) **Main section?**

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 (aka 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. Estimate of the cost of removal and statement of willingness to post a surety bond

3. Performance Standards

- a. 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. A wireless telecommunication facility must be fenced to discourage trespass.

- c. 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. 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. 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. 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. 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. Decommissioning and Abandonment **Better language in solar ord**

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.

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.

If a 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. Standard Conditions of Approval

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 owner of the wireless telecommunications facility and his or her 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 municipality, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

D. UTILITY SCALE SOLAR ENERGY FACILITY

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.

- a. Exemption. Solar Energy Facilities occupying 800 square feet or less are exempt from the requirements of this Ordinance, but must meet state electrical codes and permitting requirements, and applicable requirements

Commented [MH5]: Definition is by output. Need to reconcile

2. Specific Submittal Requirements

In addition to any Major 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. Should this go in regular LUO as a standard? Would pick up protection for that 8 acre wetland.
- j. A soil analysis of the proposed site, performed by a third-party soil scientist, with a testing pattern. Is it clear what this is? What are we looking for?
- k. An operations and maintenance plan, including:
 - i. Site control and the projected operating life of the facility
 - ii. A plan prioritizing the ability to co-mingle agricultural and energy generation land uses including but not limited to: apiaries, grazing or handpicked crops.
 - iii. A plan that provides habitat for native plants and animals and native pollinators
 - iv. 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. A Visual Impact Assessment: 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:

- i. 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.
 - ii. 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.
 - iii. 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: **Copy some of this for cell towers? Better language.**
- i. 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.
 - ii. 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.]
 - iii. Acknowledgement that the Code Enforcement Officer shall be notified at least 30 days prior to start of decommissioning.

- iv. 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.
- v. 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.
- vi. All components of Maine State Law Statute Title 35-A, 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 Major 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

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Commented [MH7]: Why? This seems excessive.

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:

- i. The significance of the potentially affected scenic resources.
- ii. The existing character of the surrounding area.
- iii. The expectations of the typical viewer.
- iv. The project purpose and the context of the proposed activity.
- v. 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.
- vi. 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.

Definitions (to be added to/compared with others in rest of ordinance)

- B. Abutting Property: The parcel(s) sharing a boundary line with, or across the road from, the subject property. ADD
- C. Agricultural Production: The activity of growing crops and/or raising livestock. This definition includes horticulture and nursery activity but does not include processing facilities, slaughterhouses or the composting of material imported from off-site. Add 2nd sentence to existing definition
- D. 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.ADD
- E. Commercial Activity: Any business endeavor operated for pecuniary gain, or involving the selling of goods or services, including non-profit operations. Don't need
- F. Development: Any change by individuals or entities to improved or unimproved real estate, including but not limited to: the construction of buildings and other structures; construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation or drilling operations. Activities related to agricultural production or timber harvesting are exempted from the definition of development. Compare with existing
- G. Impervious Surface: A material covering the earth, which is non-porous, e.g. concrete, or asphalt. ADD
- H. Development Permit: Written authorization from the Planning Board that the activity applied for pursuant to this ordinance has been approved. ADD?
- I. 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. ADD?
- J. Planning Board Review: The process described within this ordinance in which the Planning Board and other relevant Town review authorities make findings of fact and determine whether a proposed activity as described within a Development Permit Application meets the standards set out in this ordinance. Based upon this review, the Planning Board may either approve or deny a Development Permit. ADD?
- K. Sketch or 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. The specific requirements for information to be included are outlined in Section 6.B of this ordinance.

- L. Structure: Any material or a combination of materials which are constructed or erected, the use of which requires location on the ground, or attached to something located on the ground, exclusive of tents and fences. **Keep what we have**
- M. Timber Harvesting: The cutting and removing of trees from their growing site, and the attendant operation of mobile and portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails and winter haul roads. Timber harvesting does not include the clearing of land for other land uses. **All Set**
- N. Trip: A single or one direction vehicle movement with either the origin or destination inside the development area. **Better than what we have.**

Article ? Subdivision Review – Draft of 4/4/24

D. Applicability:

The provisions of this Article shall apply to all development considered to be a subdivision as defined by Title 30 -A, M.R.S. Section 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:
- The elevation of the land above sea level and its relation to the floodplain,
 - The nature of the soils and subsoils and their ability to adequately support waste disposal,
 - The slope of the land and its effect upon effluents, and,
 - 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 with the all the applicable standards and requirements of this Ordinance, and other local ordinances. In making this determination, the planning Board may interpret 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
- Subdivision Review

Commented [MH1]: Is this a general LU standard that does not need to be repeated?

any wetland, great pond or river as defined in Title 38, 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.

Commented [MH2]: Check w Chp 1000

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 whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider 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.

Commented [MH3]: Is this the sole current standard or do we refer them to the Floodplain Management Ordinance?

N. All freshwater 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.

Commented [MH4]: Do we not care about forested wetlands since next sentence says "all"?

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.

Commented [MH5]: Check definitions

P. The proposed subdivision will provide for adequate stormwater management.

R. 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

Commented [MH6]: Suggest highlighted all moved to front of ordinance as standard 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 whether or not 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:

1. 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:

1. 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. The cost to perform additional studies or hire a consultant shall be borne by the applicant. The Planning Board may require the applicant to deposit with the Town the estimated cost of any consultant or additional study which 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. The applicant shall place additional funds into the escrow account in order to meet expenses.

E. Rights Not Vested:

1. 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 Title 1, M.R.S.A., Section 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:
 - Sketch Plan Review
 - Preliminary Plan Review
 - Final Plan Review

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.

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 7 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 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:

1. 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:

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

Commented [MH7]: Also include under Appeals in front.

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 public hearing notice shall be made as follows:
 - a. The Planning Board shall hold a public hearing within 30 days after determining that the application is complete. A notice of the date, time and place of the public hearing shall be:
 - (1) Published, at least two times, in a newspaper having general circulation in the municipality. The date of the first publication shall be at least 7 days before the hearing.
 - (2) Mailed by first class mail to the applicant, at least 7 days prior to the public hearing.
 - (3) Mailed by first class mail to all property abutters, at least 7 days prior to the public hearing. The Planning Board shall maintain a list of all property abutters and record the date the notice was mailed. Failure of an abutter to

Commented [MH8]: Move to front

receive a notice shall not invalidate the public hearing, nor shall it require the Board to schedule a new public hearing.

3. 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 the notice requirements listed above for the continued public hearing.

M. Joint Meetings:

1. If any portion of a proposed subdivision crosses municipal boundaries, the Planning Board shall follow the notice, meeting, and review requirements specified in Title 30-A, M.R.S.A., Sections 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, in 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 Selectman 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 Selectmen. The Selectmen shall take any steps necessary to preserve the Town's rights.

Commented [MH9]: Again, is this generic?

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 the road performance standards contained in this Ordinance)
 - b. The Local Plumbing Inspector shall inspect the installation of all subsurface waste water 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 exist and the steps necessary to remedy the situation. The Code Enforcement Officer shall notify the Planning Board and the Selectmen 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 Selectmen.

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 a complete sketch plan application to the Planning Board at least 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 Planning Board and 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

Commented [MH10]: Move up front?

A. Procedure:

1. The applicant shall, at least 10 days prior to a scheduled meeting of the Planning Board, submit a complete preliminary plan application to the Town Clerk and/or the Planning Board Secretary. 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 3 complete copies including all maps and related attachments. The Planning Board shall receive 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 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 30 days of determining that it has received a complete application.
6. Within 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 is in compliance with the review criteria, and 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 the Town's most recent FIRM Map.
 - (13) The boundaries of all shoreland zoning 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, if the subdivision is located within the direct watershed of a great pond.
 - (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.
- i. Any other data necessary in order to meet the requirements of this Ordinance

Commented [MH11]: Maybe someday there will be scenic areas ID.

Section 7 Final Plan Review

A. Procedure:

1. The applicant shall, at least 10 days prior to a scheduled meeting of the Planning Board,

Subdivision Review

Commented [MH12]: Move to front?

submit a complete final plan application to the Town Clerk and/or Planning Board Secretary. 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 2 stable-based transparencies and 3 paper copies. The planning Board shall receive 2 original transparencies, and two paper copies. One paper copy shall be placed in the Town Office for Public review.
3. Within 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 30 days of determining that it has received a complete application.
5. Within 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 the 2 stable -based transparencies. 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 Register of Deeds, within 90 days of the date upon which the plan is approved. Failure to file the plan with the Register of Deeds, within 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.

Commented [MH13]: I wonder if transparencies are done any more.

B. Final Plan Submissions:

1. 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:
 - a. A receipt form the Town indicating that the application has been paid.
 - b. A final plan application form and all required attachments and maps.
 - c. All the submission materials required for a preliminary plan.
 - d. All conditions and modifications approved by the Planning Board for the preliminary plan shall be contained on the final plan.
 - e. All waivers approved by the Planning Board shall be shown on the final plan.
 - f. All additional studies and/or materials required by the Planning Board, as applicable.
 - g. A signature block shall be provided on the final plan.
 - h. A performance guarantee, if applicable.
 - i. The location and type of all permanent markers set at all lot corners.
 - j. If the subdivision contains any private roads, the plan shall contain a statement as follows: The subdivision roads are designed as private roads are not eligible for acceptance by the Town of Fayette, unless the road is improved to meet the appropriate standards for road acceptance.
 - k. Written copies of any documents of land dedication, and written evidence that the

Board of Selectmen are satisfied with the legal sufficiency of any documents accomplishing such land dedication.

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

B. General Lot and Density Requirements:

Unless a condominium or cluster development, individual lots shall meet the minimum dimensional requirements in Article x, Table ?. 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 dwelling units may be allowed, with up to two dwelling units allowed on each minimum sized lot.

Commented [MH14]: Check this language

C. Monuments:

- 1. Monumentation as required by the Maine Board of Registration of Land Surveyors shall be installed at the following:
 - a. At all road intersections and points of curvature, but no farther than 750 feet apart along road lines without intersections or curves.
 - b. At all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less.
 - c. 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.

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:

Commented [MH15]: Jess, look good?

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 that 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 tanks systems shall not be allowed to serve new lots or structures.

G. Erosion Control:

1. All activities which involve filing, grading, excavation or other similar activities which result in unstabilized soil conditions shall comply with the following:
 - a. 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.
 - b. 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:

1. All construction and development shall be designed to minimize storm water runoff from the site. Where possible, natural runoff control features shall be retained in order to reduce runoff and encourage infiltration. A stormwater control plan shall be developed for the site according to the following standards:
 - a. 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.
 - b. Peak discharges shall be limited to the predevelopment levels.
 - c. 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.
 - d. Driveways and roads shall meet the requirements of this Ordinance, with culvert sizes and drainage plans approved by the Road Commissioner or designee.
 - e. 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 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 in the Town's Comprehensive Plan, 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. Historic, Archeological, Wildlife Habitat, Scenic Areas, and Rare and Natural Areas:

- 1. 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:
 - a. 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.
 - b. 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.
 - c. 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 the following:
 - (1) habitat or endangered species appearing on the official state or federal list of endangered or threatened species.
 - (2) Significant waterfowl and wading bird habitats as defined by the Maine Department of Inland Fisheries and Wildlife.
 - (3) Deer wintering areas as identified by the Maine Department of Inland Fisheries and Wildlife.

Commented [MH16]: Doesn't say "significant" so this would cover all those mapped deer wintering areas. I guess OK but should be for developments as well as subdivisions?

M. Financial and Technical Capacity:

- 1. 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:
 - a. 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.

- b. 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.
- c. 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:

- 1. 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 ? Driveways and Roads**, with Mobile Home Parks following additional standards as provided within **this Article cite.**

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 4 lots or 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 1 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.

All land proposed for recreation purposes shall be protected by a suitable deed restriction that prohibits development and preserves the land for future inhabitants.

All recreational areas to be owned in common shall include a maintenance plan and mandatory association agreement in each of the subdivision lot deeds.

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 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 set-back 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

1. 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:
 - a. Building sites shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas.
 - b. Road and lot layout shall be adapted to the existing topography.
 - c. Existing trails shall be preserved.
 - d. Existing vegetation along front, side and rear lot property lines shall be preserved.
 - e. Lots shall be designed so as to enhance the privacy and rural atmosphere of the development.
 - f. Trees located along the roads shall be preserved to the greatest extent possible in order to maintain a rural landscape corridor.
 - g. Existing vegetation along all streams, ponds, wetlands shall be preserved.

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**.

Commented [MH17]: Need to check for conflicts including the Roads standards

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 Title 30-A, Section 4358, Subsection 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.
Minimum lot area - 20,000 square feet
Minimum lot width - 100 feet Minimum lot frontage - 100 feet
- b. Lots served by a central subsurface wastewater disposal system.
Minimum lot area - 12,000 square feet
Minimum lot width - 75 feet 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, the area required for road rights-of-way;
 - (2) the area required for buffer strips, if any; and
 - (3) 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:
Front setback: 20 feet on internal private park roads, 50 feet on public roads
Side setback: 20 feet
Rear setback: 10 feet
- b. A minimum 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 5 feet provided a distance of 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. So as 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 10 feet from the right-of-way and the average distance is at least 20 feet for all units.

4. Buffer Strips

A 50 foot wide buffer strip shall be provided along all property boundaries that:

(1) Abut residential land which has gross density of less than half of that proposed in the park, or

(2) Abut residential land that is zoned at a density of less than half of that proposed in the park. Further, 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.

(3) Within 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.

5. 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.

6. Park Administration

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. 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. 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. Any notices of violation, together with follow-up action by the owner or the Board, shall be provided promptly with the Code Enforcement Officer no later than five business days following receipt.

7. Parking Requirements

a. For each mobile home lot there shall be provided and maintained at least 2 off- street parking spaces.

b. Each parking space shall contain a minimum of 200 square feet with minimum dimensions of 10 by 20 feet. This requirement may be waived if a parking lane is provided.

8. 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.

9. 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 Circulation

- (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 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.

d. Right-of-way and Pavement Width

- (1) Two-way park roads shall have a minimum right-of-way of 23 feet and a minimum paved surface of 20 feet. On-street parking shall be prohibited.
- (2) One-way streets shall have a minimum right-of-way of 18 feet and a minimum paved surface of 14 feet. On-street parking shall be prohibited.
- (3) Parking lanes shall be a minimum of 8 feet in width, if provided.
- (4) Cul-de-sac turnarounds (option for private roads only) shall have a minimum radius of 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.

e. Water Supply

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. The water source shall be capable of producing 300 gallons of potable water per mobile home lot per day. 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. The results of annual testing requirements will be provided to the Code Enforcement Officer, together with any necessary required treatments for contaminants.

f. 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.

g. 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 9. ENFORCEMENT

- B. 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.
- C. A person shall not convey, offer to convey any land in a subdivision which has not been approved by the planning Board and recorded in the Registry of Deeds.
- D. 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.
- E. 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.
- F. 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.
- G. 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.
- H. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A, M.R.S.A. ss.4452.

Commented [MH18]: Here or in front in a Subdivision Subsection?

Article III. Administration and?

SECTION 1. ADMINISTRATING BODIES AND AGENTS

- 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 managing a permit application and review process, making determinations on interpreting the provisions of this Ordinance, advising the Planning Board, and addressing violations.
- B. Planning Board – ~~There shall be a~~ The Town of Fayette Planning Board, in accordance with the provisions in State law, shall be responsible for reviewing and approving applications for subdivisions, roads and those land use permits so designated in the Land Use Table (Article , Section y).
- C. Board of Appeals – ~~There shall be a~~ Town of Fayette Board of Appeals shall be responsible to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by, or failure to act by the Code Enforcement Officer or the Planning Board in the administration of this Ordinance., in accordance with the provisions of title 30-A MRS Section 2691.
- D. Licensed Plumbing Inspector – The Licensed Plumbing Inspector shall be appointed annually in July and shall be responsible for .
- 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.
- F. **Board of Select Board men – The Select Board of Selectmen shall be responsible for issuing Junkyard Permits in accordance with MRS (), approving enforcement actions, and seeing that other officials are properly appointed and performing their designated functions.**

Commented [MH1]: I don't think we want to repeat here what is in the Administration Ordinance. Here is more what their roles are w/r/t this Ordinance.

SECTION 2. PERMITS REQUIRED

- A. All permits shall be issued by the Code Enforcement Officer, Road Commissioner or Licensed Plumbing Inspector, when applicable, after the appropriate review by the designated administering body.
~~A-~~
- B. After meeting the appropriate review requirements established by this Ordinance, permits shall be obtained from the Code Enforcement Officer and/or, if necessary, by the Licensed Plumbing Inspector for the following:
 - 1. The construction, erection, improvement, addition, enlargement, alteration, demolition, or movement of any building or structure. All dimensional and requirements 2-9 must be met
 - 2. Installation or construction of a dwelling unit, mobile home, accessory dwelling unit, or manufactured home
 - 3. Expansion of a non-conforming use or structure.
 - 4. Mineral extraction activities.
 - 5. Change of use to one that is allowed in a particular district.
 - 6. For a new or expanded land use activity as listed in the Land Use Table.
 - 7. **The installation of internal plumbing or subsurface wastewater disposal systems.**

Commented [MH2]: Should Town Manager be mentioned?

8. Conversion of a seasonal residence into a year-round residence. (Title 22 MRSA Art. 42, October 1, 2002)
9. ~~Road/driveway entrance and culvert installation~~ Developing an accessway of any kind to any Town-maintained road

Commented [JL3]: These make plumbing permit required section unnecessary

- C. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.
- D. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.
- E. A permit shall be obtained for all activities listed in Section #2.B above, prior to the start of any construction, site work, or commencement of a land use activity.

SECTION 3. PERMITS NOT REQUIRED

- A. Permits are not required for the following:
 1. For an allowed land use activity as indicated in the Land Use Table.
 - ~~2.~~ Timber harvesting.
 - ~~3.~~ For the normal repair and maintenance of any structure.
 4. ~~For~~ Up to one free standing accessory structure other than a deck or porch, 200 square feet or smaller ~~is allowed~~ per year provided the following:

~~3.~~

A completed

Building Notification Form as provided by the town must be submitted to the office prior to construction. Once the ~~B~~ building ~~n~~ Notification has been submitted, the construction may begin provided all provisions of the Fayette ~~L~~and ~~U~~se ~~O~~rdinance can be met.

- a. All setbacks and dimensional requirements as set forth in article 7 - land use districts, section 6-a-table of dimensional requirements, shall be met for the zone in which the structure is located. Where there are two zones present, the stricter requirement applies. It shall be the responsibility of the person(s) filing the building notification to acquire any and all required state and federal permits (i.e. Permits-by-~~r~~Rules, MaineDOT Entrance Permits, plumbing permits, etc.).
- b. The building shall not be utilized for residential or commercial uses other than for agricultural uses ~~as defined in the Fayette land use ordinance.~~
- c. Failure to file a ~~B~~ building ~~n~~ Notification will result in fines as follows:
 - i. First offense- \$50.00.
 - ii. Second offense- \$200.00
 - iii. Third offense- \$500.00
 - iv. Fines for subsequent violations will be determined by the Board of Select Boardmen and may require a consent agreement and forfeiture of the privilege to file a building notification. Fines not to exceed state law 30-a M.R.S., section 4452, however, the ~~board of selectmen~~ Select Board may require any violator(s) to pay for legal fees and expenses incurred for enforcement action taken against them.

Commented [MH4]: Let's put this on Thursday agenda to confirm leaving as is since we have never discussed.

Commented [MH5]: Shouldn't need to point to the definition but we do have one, yay.

- ~~4.~~ 5. A permit is not required for the replacement of an existing road culvert as long as:

- a. The replacement culvert is not more than 25% longer than the culvert being replaced.
- b. The replacement culvert is not longer than 75 feet; and
- c. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

5-6. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate, timely, temporary, and permanent stabilization measures.

Commented [MH6]: Let's be clear about when this applies - private roads and driveways? Town replaces driveway culverts on town roads.

Commented [MH7]: Would the town want notification when this happens with a description of what's happening?

SECTION 4. FEES AND PERMIT PROVISIONS

- A. Permits shall expire one year 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 one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.
- B. A public utility, water district, sanitary district, or any utility company of any kind may not install services to any new structure located in a Shoreland Zoning District unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials and the utility.
- C. Fees:
 - a. ~~Building p~~Permit fees shall be established by the Select Board from time to time. ~~and A~~ list of fees shall be available at the Town Office and posted on the Town Web Site.
 - b. All ~~building~~ permit fees shall be paid upon submission of the permit application and shall be non-refundable. Fees shall be made payable to the Town of Fayette.
 - c. A double fee shall be charged for any application which is submitted after the proposed use or construction has been initiated. This shall be in addition to any ~~finer~~ of actions or Ordinance violations.
- D. No new structure may be occupied without a Certificate of Occupancy issued by the Code Enforcement Officer. The Code Enforcement Officer shall inspect the structure to determine if it complies with all applicable requirements of this Ordinance.

Commented [MH8]: Does this sentence make sense? Would it be "fines imposed due to Ordinance violations?" What else is there?

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 each such notice shall be submitted to the municipal officers and be maintained as a permanent record.

2. The Code Enforcement Officer or designee may conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall 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. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- 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. The Planning Board shall be kept informed of all steps involved in enforcement proceedings.
- 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. Section 4452.

SECTION 6. APPEALS

A. Making An Appeal

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision made, or from any failure to act by the Code Enforcement Officer, Road Commissioner, LPI? or the Planning Board, except that Subdivision and Junkyard appeals shall be taken to Superior Court. Such appeal shall be taken within 30 days of the date of the decision appealed from or within a reasonable time after failure to act, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the 30-day requirement. The

Commented [MH9]: Are LPI decisions appealable? Also confirm RC. Would need to fix language following depending on answer (could just say administrative body or agent generic if so)

Commented [MH10]: Get the right language here and clarify Select Board appeals v PB appeals for junkyards.

Board of Appeals shall hold a public hearing on all administrative and variance appeals.

2. The applicant shall have the burden of proof and shall file on the form provided by the Board a written notice of appeal which shall include:
 - a. A concise written statement indicating what relief is requested and why it should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
3. The Planning Board, [Road Commissioner](#) and/or the Code Enforcement Officer shall transmit both to the applicant and the Board of Appeals all the documents constituting the record from which the appeal was made. This includes the following documents which shall be submitted to the applicant and the Appeals Board members by the Code Enforcement Officer for their review at least one week prior to any hearing: the appellant's application, the application to the Planning Board or Code Enforcement Officer, any permits received, the decision in question, the minutes of the Planning Board or Code Enforcement Officer meeting(s), Code Enforcement Officer's notes, and any other document(s) related to the decision being appealed.
4. The majority of the Board shall constitute a quorum for the purposes of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
5. The concurring vote of the majority of the members of the Board of appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter in which it is required to decide under this Ordinance, or to effect any variation in the application of this Ordinance from its stated terms. The Board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this ordinance.
6. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, 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. A copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.
7. The Board of Appeals shall decide all appeals within 35 days after the close of the hearing and shall issue a written decision on all appeals. The decision shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis thereof. The Board shall cause written notice of its

decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers. All meetings shall be recorded, and copies of the recordings shall be available to the public at reasonable cost.

8. The Board of Appeals may reconsider any decision within thirty (30) days of its prior decision. The Board may conduct additional hearings and, with regard to appeals from the Code Enforcement Officer's decision or failure to act, receive additional evidence and testimony.
9. Any variances must be recorded in the Registry of Deeds by the Town of Fayette.
10. Any aggrieved party who participates as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State Laws within thirty (30) days from the date of any decision of the Board of Appeals.

B. Administrative Appeals

C. Variance Appeals

1. Undue Hardship Variance. A variance may be permitted only under the following conditions: A variance may be granted only from dimensional requirements including but not limited to lot width and frontage, structure height, percentage of lot coverage and setback requirement.
 - a. A variance shall not be granted for establishment of uses otherwise prohibited by this Ordinance.
 - b. The Board shall not grant a variance unless it finds that strict application of the terms in this Ordinance will result in undue hardship, and that the proposed structure or use would meet the performance standards contained in this Ordinance except for the specific provisions which have created the non-conformity and from which relief is sought.
 - c. For areas in the Protected Shoreland Zone Districts, a copy of each variance request, including the application and all supporting information supplied by the applicant shall be forwarded by the municipal officers to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Appeals Board.
 - d. The Term "UNDUE HARDSHIP" Shall Mean:
 - i. That the land in question cannot yield a reasonable return unless the variance is granted;
 - ii. That the need for the variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

Commented [MH11]: We should revisit this limitation as it is optional. Town could also authorize use variances. There are 5 types of possible variances. We should review these together on Thursday and it would be good to find another town's language to copy if we can.

Commented [MH12]: If this is for all variance appeals, should move to Section A.

- iii. That granting of a variance will not alter the essential character of the locality; and
- iv. That the hardship is not the result of action taken by the applicant or a prior owner.

2. Basic Disability Variance.

Commented [MH13]: This is required and we have it now.

The Board of Appeals may grant a variance to the owner of a dwelling for the purpose of making that dwelling accessible to a person(s) with a disability who is living in or regularly accesses the dwelling. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railings, walls or roofs necessary for the safety or effectiveness of the structure.

3. Setback Variances For Single Family Dwelling (year round residence) 30-A 4343 (4-B)

Commented [MH14]: This one is optional and we already have it.

This Ordinance is strictly limited to permitting a variance from a set-back requirement for a single-family dwelling that is the primary year-round residence of the applicant. A variance may not exceed 20% of a set-back requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. A variance may exceed 20% of a set-back requirement, except for minimum setbacks from a wetland or water body required within shoreland zones, if the applicant has obtained written consent of an affected abutting landowner.

The term "undue hardship" used here means:

- i. The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.
- ii. The granting of a variance will not alter the essential character of the locality.
- iii. The hardship is not the result of action taken by the appellant or a prior owner.
- iv. The granting of the variance will not substantially reduce or impair the use of abutting property; and
- v. The granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

4. Practical Difficulty Variance from Dimensional Standards – Where should I take this language from? MMA manual? Certain town that has this? 30A MRS 4353 (4-C)
5. Disability Variance for Construction of a Garage to House the Personal Vehicle of a permanently disabled person. 30-A MRS 4353 (4-A,B)

Commented [MH15]: I'll go look for a sample but may be after Thursday meeting. We've already agreed we're adding it.

Commented [MH16]: This is an option. Do we want to allow it?