

TOWN OF FAYETTE

LAND USE ORDINANCE

Amended as of
JUNE 17, 2017

Attestation:



Mark Robinson, Town Clerk

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ARTICLE I - GENERAL PROVISIONS

SECTION 1. TITLE

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

SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII-A of the Maine Constitution, and the following:

Title 30-A *MRSA* Section 3001, the State's Growth Management Law, Title 30-A *MRSA* Section 4312 et. Seq., the Mandatory Shoreland Zoning Act, Title 38, *MRSA* Section 435 and Section 438 et seq., the Subdivision law, Title 30-A *MRSA* Section 4401 et seq., Maine Forest Service Rule – Chapter 21 (June 15, 2007), Title 30-A *MRSA*, Section 4352, State of Maine Subsurface Wastewater Disposal Rules, State Minimum Lot Size Law 12 M.R.S.A. Sections 4807-A through 4807-D, Title 30-A, *MRSA* Section 1917 and Constitution Art VIII-A, Title 30- A *MRSA* Section 2691, 30-A, *MRSA* Section 4452, Title 22 *MRSA* Art. 42, October 1, 2002, State of Maine Internal and Subsurface Wastewater Disposal Rules, Title 30-A *MRSA*, Article 4211, 30-A *MRSA* Article 4215, subsection2, Maine Department of Inland Fisheries and Wildlife, Maine Historic Preservation Commission, Fayette Comprehensive Plan, National Register of Historic Places, Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps, Natural Resources Protection Act, 38 *MRSA*. Section 480-C, Title 22 *MRSA* Article 42, "Stormwater Management for Maine: Best Management Practices," published by the Maine Department of Environmental Protection, 2007, "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New *Development*", published by the Maine Department of Environmental Protection, revised 1992, 2002, *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law 7 M.R.S.A. sections 4201- 4209 State of Maine Standards for "Best Management Practices For Timber Harvests." (Maine Forest Service Rule, Chapter 21, June 15, 2005), Maine Department of Inland Fisheries and Wildlife, State of Maine "Manufactured Home Installation Standard," Chapter 900, Title 30A *MRSA* Section 4358, Title 30-A *MRSA* Sections 3751 through 3760, Title 30-A *MRSA* Section 3755 - A subsection 1, paragraph C, Title 38 Article 4-A Section 465-A, Title 30-A *MRSA* Section 4358, Title 38 *MRSA* Section 414, *MRSA* Art. 685-A, Title 23 *MRSA* Chapter 21.

SECTION 3. PURPOSES

A. The purposes of this Ordinance are to promote, protect and facilitate the health, safety and general welfare of Fayette residents;

B. To protect and conserve our land, water, fisheries and wildlife, soils, scenic, recreational and natural resources;

C. To protect our rural character;

D. To promote sound land use practices and conservation through the regulation of certain land use activities including, but not limited to, building sites and placement of structures, waste disposal, resource extraction (timber harvesting), traffic;

E. To anticipate impacts of *development*, and

F. To advance the Growth Management Policies and Strategies for Implementation set forth in our Comprehensive Plan.

SECTION 4. APPLICABILITY

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

SECTION 5. EFFECTIVE DATE

A. This Ordinance was adopted by the Town of Fayette on June 14, 2008. The following sections were amended on June 13, 2009: Article 7, Section 5, Table of Land Uses and Table of Dimensional Requirements; Article 2 Section 3(C)(1); Article 3 Section 3(G)(6); Article 3, Section 5(B)(2); Article 4 Section 1(A)(1); Article 4 Section 6(D); Article 6 Section 5(B)(1); Article 8 Section 3(E); and Article 8 Section 7. On June 17, 2017 the Fayette Land Use Ordinance was further amended by repealing Article 8, Section 14-Timber Harvesting; Section 5, Table of Land Uses; and Article 9-Definitions.

For the Protected Districts (Resource Protection, Stream Protection, Wetland Protection and Shoreland District), shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, attested to and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance within the forty-five (45) day period of his/her receipt of the Ordinance, it shall be automatically approved. Upon approval of this Ordinance, the *Site Plan Review Ordinance*, dated March 5, 1988, and the *Town of Fayette Zoning and Land Use Ordinance*, adopted in March 1994, amended in August 1999, on June 17, 2000, in 2001 and 2002 are hereby repealed. Any application for a permit regarding Protected Districts, submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance if the Ordinance is approved by the Commissioner.

SECTION 6. AVAILABILITY

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the *person* making the request. Notice of availability of this Ordinance shall be posted at the Town Office.

SECTION 7. SEVERABILITY

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

SECTION 8. CONFLICTS WITH OTHER ORDINANCES

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

SECTION 9. AMENDMENTS

- A. An amendment to this Ordinance may be initiated by:
1. The Planning Board, provided that there is a quorum vote of the members.
 2. Request of the *Select Board* to the Planning Board.

4. Written petition of a number of voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election, and submitted to the *Select Board*.

B. This Ordinance may be amended by majority vote of the *legislative body*, but only after *public hearings* upon the proposed changes and/or amendment. Copies of amendments, regarding Protected Districts (Resource Protection, Stream Protection, Wetland Protection and Shoreland District), attested to and signed by the municipal clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal *legislative body* and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment the amendment is automatically approved. Any application for a permit regarding any Protected District, submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

C. The Planning Board shall hold at least one *public hearing* on the proposed amendment prior to a vote at a Town Meeting. Notice of the hearing shall be posted at least 14 days in advance in the Town Office, and shall be published at least 7 days in advance in at least 2 newspapers of general circulation in the area. Property owners affected by the proposed amendment shall be notified as required by Title 30-A *MRSA*, Section 4352.

D. No proposed changes in the Ordinance which have been unfavorably acted upon by the Town Meeting shall be considered within 2 years after the date of such unfavorable action unless adoption of the proposed change is recommended by the vote of a majority of the Planning Board.

ARTICLE 2 - NON-CONFORMANCE

SECTION 1. PURPOSE

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

SECTION 2 GENERAL

A. *Legal non-conforming structures*, lots, and uses may be transferred, and the new owner may continue the *non-conforming use* or continue to use the legal non-conforming structure or lot, subject to the provisions of this Ordinance.

B. This Ordinance allows, without a permit, the normal upkeep and maintenance of *non-conforming uses* and structures including repairs and renovations which do not involve expansion of the *non-conforming use* or structure, and such other changes in a *non-conforming use* or structure as Federal, State or local building and safety codes may require.

SECTION 3. LEGAL NON-CONFORMING STRUCTURES

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

1. Legally existing non-conforming principal and *accessory structures* that do not meet the current water body, tributary stream or wetland *setback* requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met:

a. Expansion of any portion of a structure within 25 feet, horizontal distance, of the *normal high-water line* of a water body, tributary stream or upland edge of a wetland is prohibited, even if the expansion will not increase non-conformity with the water body, tributary stream or wetland *setback* requirement.

b. Expansion of an *accessory structure* that is located closer to the *normal high-water line* of a water body, tributary stream or upland edge of a wetland than the *principal structure* is prohibited, even if the expansion will not increase non-conformity with the water body, tributary stream or wetland *setback* requirement.

c. For structures located between 25 and 75 feet, horizontal distance, from the *normal high-water line* of a water body, tributary stream, or upland edge of a wetland, the maximum combined total *floor area* for all portions of those structures is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.

d. For structures located between 75 and 100 feet, horizontal distance, from the *normal high-water line* of a water body, tributary stream, or upland edge of a wetland, the maximum combined total *floor area* for all portions of those structures within that 75 and 100 feet distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 75 and 100 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the *floor area* and height limits of paragraph A 1 (c), above.

e. For the purpose of Section 3A (1) above, a *basement* is not counted toward *floor area*.

f. See definition of *Increase in Nonconformity of a Structure*.

2. Whenever a new, enlarged, or replacement *foundation* is constructed under a legal non-conforming structure, the structure and new *foundation* must be placed such that the *setback* requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 3C(1), Relocation, below. If the completed *foundation* does not extend beyond the exterior dimensions of the structure and the *foundation* does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

B. Special Expansion Allowance:

1. Existing principal and *accessory structures* that exceed the *floor area* or height limits set forth in Section 3 A1(c)(d), above may not be expanded, except that the limits may be exceeded by not more than 500 square feet provided that all of the following requirements are met:

a. The *principal structure* is set back at least 50 feet, horizontal distance, from the *normal high-water line* of a water body, tributary stream or upland edge of a wetland.

b. A well-distributed stand of trees and other natural vegetation as defined in Article 8 Section 15(B)(2), below, extends at least 50 feet, horizontal distance, in depth as measured from the *normal high-water line* of a water body or upland edge of a wetland for the entire width of the property. If a "well distributed stand of trees and other vegetation," meeting the requirements of Article 8 Section 15(B)(2), below, is not present, the 500 square foot special expansion allowance may be permitted only in conjunction with a written plan, including a scaled site drawing, by the property owner, and approved by the Planning Board to reestablish a buffer of trees, shrubs, and other *ground cover* within fifty (50) feet, horizontal distance, of the shoreline or tributary stream..

c. Adjacent to water bodies, tributary streams, and wetlands, except for the allowable footpath, there exists complete natural *ground cover*, consisting of forest duff, shrubs, and other woody and herbaceous vegetation within 50 feet, horizontal distance, of the *normal high-water line*. Where natural *ground cover* is lacking, the area must be supplemented with leaf or bark mulch with a minimum thickness of 4 inches and plantings of *native* shrubs, and other woody and herbaceous vegetation in quantities sufficient to retard erosion and provide for effective infiltration of storm water.

d. A written plan by the property owner, including a scaled site drawing (if required by the Planning Board), is approved by the Planning Board and is developed, implemented, and maintained to address the following mitigation measures for the property within the *Shoreland Zone*:

(1) Unstabilized areas resulting in soil erosion must be mulched, seeded, or otherwise stabilized and maintained to prevent further erosion and sedimentation to water bodies, tributary streams and wetlands.

(2) Roofs and associated drainage systems, *driveways*, parking areas, and other non-vegetated surfaces must be designed or modified, as necessary, to prevent concentrated flow of storm water runoff from reaching a water body, tributary stream or wetland. Where possible, runoff must be directed through a vegetated area or infiltrated into the soil through the use of a dry well, stone apron, or land depressions. Avoid directing flow into septic systems and wells.

(3) The Planning Board may require the current waste water disposal system to be approved by a Licensed Plumbing Inspector.

2. Planting Requirements: Any planting or re-vegetation required as a condition to the Special Expansion Allowance must be in accordance with a written plan drafted by a qualified professional, shall be implemented at the time of construction, and be designed to meet the rating scores contained in Article 8, Section 15(B) (2), below, and *ground cover* requirements in paragraph c, above, when the vegetation matures within the fifty (50) foot strip. At a minimum, the plan must provide for the establishment of a well-distributed planting of saplings spaced so that there is at least one sapling per 80 square feet of newly established buffer. Planted saplings may be no less than 3 feet tall for coniferous species and no less than 6 feet tall for deciduous species. The planting plan must include a mix of at least 3 *native* tree species found growing in adjacent areas, with no one species making up more than 50% of the number of saplings planted, unless otherwise approved by the Planning Board, based on adjacent stand comparison. All aspects of the implemented plan must be maintained in a timely manner, including the replacement of dead and dying plants and washed out mulch, by the applicant as well as by future owners. The Planning Board shall make specific findings of fact showing that the proposed change will be environmentally beneficial or have no adverse impact on the environment.

3. **Filing and Reporting Requirements:** Written plans required pursuant to this section must be filed with the Kennebec County Registry of Deeds. A copy of all permits issued pursuant to this section must be forwarded by the Town to the Department of Environmental Protection within 14 days of the issuance of the permit.

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

1. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming. A structure that is relocated in the Shoreland Zone cannot be placed so that it is more non-conforming with respect to a waterbody, tributary stream, or wetland setback requirement. The Applicant must file notice of the activity with the DEP prior to beginning work on the relocation. The notification form must be sent to the DEP by certified mail, (return receipt requested), on a form provided by the DEP, and must include any submissions requested, including the Planning Board's findings of fact supporting its approval.

2. In determining whether the building relocation meets the setback to the Resource by the *greatest practical extent*, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation and the greatest benefit to the environment.

3. When it is necessary to remove vegetation within the water or wetland *setback* area in order to relocate a structure, the Planning Board shall require replanting of *native* vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

a. Trees removed in order to relocate a structure must be replanted with at least one *native* tree, three (3) feet in height, for every tree removed. Planted saplings may be no less than 3 feet tall for coniferous species and no less than 6 feet tall for deciduous species. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

b. Other woody and herbaceous vegetation, and *ground cover*, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or *ground cover* was disturbed, damaged, or removed must be reestablished within the *setback* area. The vegetation and/or ground cover must consist of similar *native* vegetation and/or *ground cover* that was disturbed, destroyed or removed.

c. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

D. Reconstruction or Replacement: Any legal non-conforming structure which is located less than the required *setback* from a water body, tributary stream, or wetland and which is damaged

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

1. If the reconstructed or replacement structure is less than the required *setback* it shall not be any larger than the original structure, except as allowed pursuant to Section 3 (A)(1) above, as determined by the non-conforming *floor area* and volume of the reconstructed or replaced structure at its new location.

2. If the total amount of *floor area* of the original structure can be relocated or reconstructed beyond the required *setback* area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the *setback* requirement for a new structure.

3. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 3C3 (b) and 3C3(c) above.

4. Any legal non-conforming structure which is located less than the required *setback* from a water body, tributary stream, or wetland and which is damaged or destroyed by 50% or less of the *market value* of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the *Code Enforcement Officer* within one year of such damage, destruction, or removal.

5. In determining whether the building reconstruction or replacement meets the *setback* to the *greatest practical extent* the Planning Board or its designee shall consider, in addition to the criteria in Section 3C(2) above, the physical condition and type of *foundation* present, if any.

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

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

2. Professional consultation may be required by the Planning Board.

SECTION 4. NON-CONFORMING USES

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

B. RESUMPTION PROHIBITED. A lot, building or structure in or on which a *non-conforming use* is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a *non-conforming use* except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period.

This provision shall not apply to the resumption of a use of a residential structure if the structure has been used or maintained for residential purposes during the preceding five (5) year period.

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

SECTION 5. NON-CONFORMING LOTS

A. NON-CONFORMING LOTS: A *non-conforming lot* of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except *lot area*, *lot width* and *shore frontage* can be met. Variances relating to *setback* or other requirements not involving *lot area*, *lot width* or *shore frontage* shall be obtained by action of the Board of Appeals. For an exception to this rule, refer to **Article 6 Section 6E. Special Review for Single-Family Dwelling on Legal Undersized Lot in a Protected District.**

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

1. If two or more *principal uses* or *structures* existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with.

2. When such lots are divided, each lot thus created must be as conforming as possible to the *dimensional requirements* of this Ordinance.

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

1. The lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

2. Each lot contains at least 100 feet of *shore frontage*, if applicable, and at least 20,000 square feet of *lot area*, or any lots that do not meet the frontage (if applicable) and lot size requirements (Table of *Dimensional Requirements*, Article 7, Section 6, below) are reconfigured or combined so that each new lot contains at least 100 feet of *shore frontage* and 20,000 square feet of *lot area*.

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

ARTICLE 3 - ADMINISTRATION AND ENFORCEMENT

SECTION 1. CODE ENFORCEMENT OFFICER

A. The *Code Enforcement Officer* shall be appointed or re-appointed annually in July.

B. The *Code Enforcement Officer* shall have the following powers and duties:

1. To interpret and enforce the provisions of this Ordinance.
2. To issue permits, perform permit reviews and certificates of occupancy as authorized by this Ordinance.
3. To issue stop work orders and other appropriate notices of violations.
4. To investigate within fifteen (15) days all complaints and reported violations received.
5. To maintain an appropriate public record of all permits issued, permit applications, enforcement actions, and other appropriate documents.
6. To provide the State of Maine with information concerning permits and *development* activity within the *Protected Districts* as required.
7. To act upon permit applications and to refer requests for Variances and administrative appeals to the Board of Appeals.
8. To assist the Planning Board and the Board of Appeals in the performance of their duties.
9. To assist the public with inquiries and other requests for information concerning this Ordinance.
10. To enter property at reasonable hours or enter any building with the consent of the property owner, occupant or agent to inspect the property or building for compliance with this Ordinance.
11. To exercise additional powers and duties authorized by statutes.
12. To refer to the Planning Board for decision any application which s/he concludes warrants further review.

SECTION 2. PLANNING BOARD

A. There shall be a Town of Fayette Planning Board, in accordance with the provisions of Title30-A, *MRSA* Section 1917 and Const. Art VIII-A as may be amended from time to time.

B. The Planning Board shall be appointed by the *Select Board* and shall consist of 5 members and four alternate members, all of whom shall be legal residents of the Town, serving staggered terms of one, two and three year terms. The Board shall annually elect a Chair from its members, and may appoint a secretary from outside the Board, who will be compensated at a predetermined rate for duties performed. The Secretary shall keep the minutes of each meeting which shall show the vote of each member upon each question. All meetings shall be recorded, and copies of the recordings shall be made available to the public at reasonable cost. All minutes of the Board shall be public information and a copy of each meeting shall be filed at the Town office within 10 days of the approval of the minutes. A quorum of the Board must be present in order to hold a meeting. A quorum shall be at least 3 members. A vote shall be carried by a simple majority of the members present at an approved meeting.

C. Neither a municipal officer nor his/her spouse may serve as a member nor as an alternate member of the Planning Board.

D. Any question or whether a conflict of interest exists to disqualify a member from voting thereon shall be decided by a majority vote of the Board, or the member may disqualify him or herself.

E. A member of the Board may be dismissed for cause, by the *Select Board*, upon written charges and after *public hearing*. The *Select Board* may also remove a member of the Planning Board under the following conditions: the member no longer resides within the Town of Fayette; or the *Select Board* has been notified by the Planning Board chairperson that a member has been absent from at least 4 consecutive meetings.

F. The Planning Board shall have the following powers and duties:

1. To hear and decide upon applications in accordance with this Ordinance. The Planning Board shall approve, approve with conditions, or disapprove all use applications.

2. To develop application forms for permits, conditional use applications and subdivision applications.

3. To exercise additional powers and duties authorized by statutes.

4. To review and propose updates to this Ordinance as necessary.

5. To review and propose updates to the Comprehensive Plan as necessary.

6. To perform other duties as authorized by the Town of Fayette.

7. To review subdivision applications as authorized by the Town of Fayette Subdivision Ordinance.

8. To review changes and expansions in *non-conforming uses*, lots and structures as authorized by this Ordinance.

9. To enter property at reasonable hours or enter any building with the consent of the property owner, occupant or agent to inspect the property or building for compliance with this Ordinance

SECTION 3. BOARD OF APPEALS

A. There shall be a Town of Fayette Board of Appeals, in accordance with the provisions of title 30-A *MRSA* Section 2691.

B. The Board of Appeals shall be appointed by the *Select Board* and shall consist of 5 members and 2 alternate members, all of whom shall be legal residents of the Town, serving staggered terms of two, three and five year terms. A quorum shall be at least 3 members. The Board shall annually elect a Chair from its members, and may appoint a secretary from outside the Board, who will be compensated at a predetermined rate for duties performed. The Secretary shall keep minutes of each meeting which shall show the vote of each member upon each question. All meetings shall be recorded, and copies of the recordings shall be made available to the public at reasonable cost. A copy of all minutes of the Board shall be public information and shall be filed at the Town Office within ten (10) days after each meeting.

1. Neither a municipal officer nor his/her spouse may serve as a member nor as an alternate member of the Board.

2. Any question of whether a conflict of interest exists to disqualify a member from voting thereon shall be decided by a majority vote of the Board, or the member may disqualify him or herself.

3. A member of the Board may be dismissed for cause, by the *Select Board*, upon written charges and after *public hearing*.

4. The Board of Appeals shall have the following powers and duties:

a. To authorize variances upon appeal, within the limitations set forth in this Ordinance.

b. To revoke an authorized variance if information upon which an approval is based is, at a later date, discovered to be erroneous.

c. To hear and decide appeals where it is alleged that 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. An appeal regarding the *Code Enforcement Officer* shall be heard *de novo*. An appeal regarding the Planning Board shall be decided on the record created before the Planning board.

(1) When the Board of Appeals reviews a decision of the *Code Enforcement Officer*, the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity, the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

(2) When the Board of Appeals reviews a decision of the Planning Board, it shall hold an appellate hearing. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall neither receive nor consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

d. To develop application forms for variance and other requests.

e. To perform other duties as authorized by this Ordinance and the Town of Fayette.

C. VARIANCE APPEALS

1. 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.

2. A variance shall not be granted for establishment of uses otherwise prohibited by this Ordinance.

3. 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.

4. For areas in the Protected 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:

1. That the land in question cannot yield a reasonable return unless the variance is granted;

2. That the need for the variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

3. That granting of a variance will not alter the essential character of the locality; and

4. That the hardship is not the result of action taken by the applicant or a prior owner.

E. SETBACK VARIANCES FOR SINGLE FAMILY DWELLINGS (year round residence)-the term "undue hardship" used here means:

1. The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.

2. The granting of a variance will not alter the essential character of the locality.

3. The hardship is not the result of action taken by the appellant or a prior owner.

4. The granting of the variance will not substantially reduce or impair the use of abutting property; and

5. The granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

6. 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.

7. Any variances must be recorded in the Registry of Deeds by the Town of Fayette.

F. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure 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.

G. In addition to the "Undue Hardship Variance", 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.

H. 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* or the Planning Board. 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 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 and/or the *Code Enforcement Officer* shall transmit both to the applicant and the Board of Appeals all of 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 decide all appeals within 45 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 bases thereof, and the appropriate order, relief or denial thereof. All meetings shall be recorded and copies of the recordings shall be available to the public at reasonable cost.

7. 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.

I. 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.

SECTION 4. PUBLIC HEARING REQUIREMENTS

Public hearings held by the Planning Board and the Board of Appeals shall follow these requirements:

A. At least ten (10) days prior to the *public hearing* a notice of the hearing shall be posted.

B. 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. The Planning Board or the Board of Appeals shall maintain a list of all *persons* notified. Failure to receive the notice shall not invalidate the *public hearing*.

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.A. Section 4452.

ARTICLE 4 - BUILDING PERMIT REQUIREMENTS

SECTION 1. BUILDING PERMITS REQUIRED

A. 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 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.
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.

B. 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.

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

D. A permit shall be obtained for all those activities listed in Section 1 A. above, prior to the start of any construction, site work, or commencement of a land use activity.

SECTION 2. BUILDING 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. For the normal repair and maintenance of any structure.

3. One free standing accessory structure other than a deck or porch, 200 square feet or smaller is allowed per year provided the following:

A building notification form as provided by the town must be submitted to the office **prior to** construction. Once the building notification has been submitted the construction may begin provided all provisions of the Fayette land use ordinance 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. Permit-by-rules, 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 building notification will result in fines as follows:
 - A. First offense- \$50.00.
 - B. Second offense- \$200.00
 - C. Third offense- \$500.00
 - D. Fines for subsequent violations will be determined by the Board of Selectmen 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.A., section 4452, however, the

board of selectmen may require any violator(s) to pay for legal fees and expenses incurred for enforcement action taken against them.

B. A permit is not required for the replacement of an existing *road* culvert as long as:

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

C. 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.

SECTION 3. PLUMBING PERMIT REQUIRED

A. A plumbing permit and/or a subsurface wastewater disposal permit shall be obtained for all land use and construction activities or the applicant shall submit a statement that the structure or use for which the application is made does not require a plumbing or a subsurface water disposal permit under this Ordinance or other State Rule, Law or Regulation.

B. If an application is for construction which expands the floor space and/or the number of rooms enclosed in a structure or expands the use of a structure from seasonal to year-round (permanent) use, the Planning Board may require the licensed plumbing inspector to inspect the existing waste water disposal system to determine its adequacy under current plumbing regulations.

SECTION 4. EXPIRATION OF A BUILDING PERMIT

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.

SECTION 5. BUILDING PERMIT FEES

A. Building 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.

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 fines or actions or Ordinance violations.

SECTION 6. GENERAL PERMIT REQUIREMENTS

A. BUILDING PERMIT APPLICATION. Every applicant for a building permit shall submit a written application, including a site plan, on a form provided by the Town of Fayette, to the appropriate official as indicated in this Ordinance. The *Code Enforcement Officer* may require the site plan to be scaled.

B. All applications shall be signed by the owner(s) of the property, or an individual who can show evidence of right title or interest in the property, or by an agent, representative, tenant, or contractor of the owner(s) with authorization from the owner(s) to apply for a permit hereunder. The applicant shall certify that the information in the application is complete and correct.

C. Whenever possible, the applicant shall submit with the application a list of the names and addresses of all *Abutters*. A notice to all abutters shall be mailed by the Town Office 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.

D. All applications shall be dated and the *Code Enforcement Officer* or Planning Board, as appropriate, shall note upon each application the date of its receipt.

E. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing building permit, including the site evaluation approved by the licensed plumbing inspector shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

F. The applicant shall have the burden of proof to show that the proposed activity is in conformity with the purposes and provisions of this Ordinance.

G. If a building permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the Town of Fayette.

H. Applications for building permits will be maintained as a permanent record by the Town.

I. Every building permit shall contain the following statement: "This Building Permit is issued on the condition that all material representations made by the applicant are true. The Planning Board may revoke or amend a permit if, after a hearing, it concludes that a material representation was inaccurate or missing."

SECTION 7. CERTIFICATE OF OCCUPANCY

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.

ARTICLE 5. PERMIT REVIEW REQUIREMENTS

SECTION 1. PURPOSE

A. Activities listed in Article 4 above that require a permit shall be reviewed according to the review classification established in this Article.

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 the a Protected 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 or other written arrangements have been made between the municipal officials and the utility.

SECTION 2. PLUMBING AND SUBSURFACE WASTEWATER DISPOSAL

A. Internal and subsurface wastewater disposal systems that require a permit according to the State of Maine Internal and Subsurface Wastewater Disposal Rules and this Ordinance shall be inspected by the Licensed Plumbing Inspector. (A *Code Enforcement Officer*, at times, may also be a Licensed Plumbing Inspector). A permit shall be issued if the permit application complies with all applicable State and Local Regulations. (Title 30-A *MRSA*, Section 4211.)

B. A dwelling being converted from a seasonal to a year-round residence may require the installation of a new, or enhancement of an existing, subsurface waste disposal system. A seasonal conversion permit shall not be approved if a holding tank is used as a means of wastewater storage or disposal. (Title 30-A *MRSA* Section 4215, subsection 2.)

SECTION 3. ALLOWED USES

Allowed uses as indicated in the Land Use Table do not require a permit or a permit review. Applicants are responsible for meeting the applicable provisions of this Ordinance.

SECTION 4. CODE ENFORCEMENT OFFICER PERMIT REVIEW

Applications for land use activities designated “CEO” in the Land Use Table shall be reviewed by the *Code Enforcement Officer*. After review, if the proposal complies with the applicable provisions of this Ordinance, the *Code Enforcement Officer* shall issue a permit.

SECTION 5. PLANNING BOARD REVIEW

Land use activities designated “PB” in the Land Use Table shall be reviewed by the Planning Board. After the Planning Board approves the application, a permit may be obtained from the *Code Enforcement Officer*. The Planning Board shall approve an application if the proposal complies with the applicable provisions of this Ordinance.

SECTION 6. SELECT BOARD REVIEW

Land use activities designated “SB” in the Land Use Table shall be reviewed by the *Select Board*. After the *Select Board* approves the application, a permit may be obtained from the *Code Enforcement Officer*. The *Select Board* shall approve an application if the proposal complies with the applicable provisions of this Ordinance.

SECTION 7. LICENSED PLUMBING INSPECTOR REVIEW

Land use activities designated “LPI” in the Land Use Table shall be reviewed by the Licensed Plumbing Inspector (also referred to as the Local Plumbing Inspector). After the Licensed Plumbing Inspector approves the application, a permit may be obtained from the Licensed Plumbing Inspector, whose contact information may be obtained at the Town Office. The Licensed Plumbing Inspector shall approve an application if the proposal complies with the applicable provisions of this Ordinance. Some projects require permits from both the Licensed Plumbing Inspector and the Planning Board / *Code Enforcement Officer*. Article 7, Section 5, below. (See Land Use Table)

ARTICLE 6. BUILDING PERMIT REVIEW PROCEDURES AND STANDARDS

SECTION 1. PURPOSE

The purpose of the permit review system is to provide a level of municipal review that is proportional to the anticipated impact of the particular land use activity upon the entire Town and to

the area where it is proposed.

SECTION 2. REVIEW CRITERIA

The applicant shall demonstrate that the proposed use or project meets the criteria listed below. Either the Code Enforcement Officer or the Planning Board shall approve the application unless it makes written findings that one or more of the following criteria have not been met:

- 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 comprehensive plan 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 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*.

SECTION 3. SITE INSPECTION

- A.** The *Code Enforcement Officer*, the Planning Board and/or the Appeals Board may

conduct an on-site inspection of the proposed project site in order to obtain knowledge about the site and the surrounding area.

B. Whenever the Planning Board and/or the Appeals Board conduct a site inspection, appropriate public notice shall be provided.

SECTION 4. CONDITIONS

A. Upon consideration of the appropriate review criteria, the *Code Enforcement Officer*, the Planning Board or the Appeals Board 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.

C. A performance bond may be required as a condition when the Planning Board finds one of the following items included in the proposal:

1. The project includes the construction of a public improvement such as a *road* or other structure that will be proposed for Town acceptance; or

2. The project is adjacent to an environmentally-sensitive area (such as a wetland or other resource) and the installation of erosion control measures or phosphorus control measures are critical to protecting the area.

D. The performance bond when required shall be an amount equal to the expense of installing the particular item and made payable to the Town, issued by a surety company. The performance bond may be released after the Planning Board or its designee conducts an inspection of the project to determine if the construction and performance requirements of this Ordinance have been followed. Failure to conform to the conditions of the performance bond shall be deemed a violation of this Ordinance.

SECTION 5. CODE ENFORCEMENT OFFICER PERMIT REVIEW

A. This section shall apply to all land use activities that require *Code Enforcement Officer* Review.

B. Application Procedure:

1. 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.

2. 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.

3. 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.

4. 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.

C. Submission Requirements:

1. Name, address and phone number of the owner(s), of the applicant(s) (if different from the owner), and of the applicant(s)' agent, if any.

2. Property location including the Fayette tax map and lot number.

3. Verification of the applicant's right, title or interest in the property.

4. Receipt of the appropriate permit fee.

5. Estimated cost of the proposal.

6. Schedule of construction including anticipated beginning and completion dates.

7. Plumbing and/or subsurface wastewater disposal permit application.

8. A written description of the proposed project.

9. A map (drawn to scale, if required by the *Code Enforcement Officer*) showing the location, boundaries, dimensions, elevations, uses and size of the following: site; structures; setbacks; parking areas; roads; driveways; drainage ways; erosion and storm water control measures; open space; landscaping; aquifers; buffers and all water bodies.

10. Any other information necessary to show that the proposal complies with the applicable provisions of this Ordinance.

11. 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.

12. If the project involves a non-conforming lot, the date the non-conforming lot was created.

SECTION 6. PLANNING BOARD REVIEW

A. This section shall apply to all land use activities that require Planning Board Review

B. Application Procedure:

1. An applicant shall submit to the Planning Board a copy of a complete application. Within thirty (30) days of receiving the application the Planning Board shall determine if the application is complete. The Planning Board or its designee shall notify the applicant in writing if

the application is complete or if it is not complete, of the specific items necessary to complete the application. The Planning Board may decide to hold a *public hearing* on the application.

2. All applications shall be reviewed by the Planning Board at a *public meeting*. If any *person* shall have notified the Town Office that s/he wants to attend the Planning Board meeting at which the application will be reviewed, that *person* shall be notified of the date, time and place of the meeting by the Town Office. However, failure to give such notice shall not affect the validity of any action taken on the application by the Planning Board.

3. At the *public meeting*, the Planning Board shall consider all documents and written and oral statements relating to the application.

4. Within sixty (60) days after making a determination that an application is complete, the Planning Board shall render a decision to approve the application, approve the application with conditions, or to deny the application. The final decision of the Planning Board shall be based upon whether or not the application meets the requirements of the Ordinance.

5. The Planning Board may require the applicant to perform additional studies, provide additional written information, or to hire a consultant to review the entire and/or portions of the application. The cost to perform any studies, obtain additional information or hire a consultant shall be borne by the applicant.

6. The review period may be extended beyond the 60-day limit by mutual consent of both the Planning Board and the Applicant. The final decision of the Planning Board shall be in writing and shall be provided to the applicant and to the *Code Enforcement Officer*.

7. If the application is approved, the *Code Enforcement Officer*, at the direction of the Planning Board, shall issue the permit within seven (7) days after s/he is notified of the decision. In some instances, the Planning Board may specify that the permit is not to be issued until one or more conditions are met.

8. Any aggrieved party may appeal the Planning Board's decision or failure to act to the Board of Appeals. Appeal applications are available at the Town Office.

C. Submission requirements:

1. The submission requirements listed in Section 5 B and C above of this Article shall be provided and the following items may, also, be requested in writing:

(a) A plan of the area showing contours at intervals to be determined by the Planning Board and referenced to Mean Sea Level, high water elevation, ground water conditions, bedrock, slope and vegetative cover.

(b) Plans of buildings, sewage disposal systems and water supply lines.

D. Special Review for a Single Family Home in the Resource Protection District:

1. The Planning Board may consider an application for the construction of a single-family home in the Resource Protection District if all of the following conditions can be met in addition to meeting the requirements of Section 6 (A), (B) and (C), above:

(a) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

(b) The lot on which the structure is proposed is undeveloped and was established and recorded in the Registry of Deeds in the county in which the lot is located before the lot was placed in the Resource Protection District.

(c) The proposed location of all buildings, sewage disposal systems and other improvements are:

(1) Located on natural ground slopes of less than 20%; and,

(2) Located outside of the *floodway* of the 100 year floodplain along *rivers* and artificially formed *great ponds* along *rivers*, based upon the FIRM maps for the Town of Fayette; all buildings, including *basement* floors, are elevated at least one (1) foot above the 100 year floodplain elevation; and the *development* is otherwise in compliance with any applicable floodplain management ordinance.

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

(d) The total ground-floor area of all principle and *accessory structures* is limited to a maximum of 1,500 square feet. This limitation cannot be altered by variance. Cantilevered or similar overhanging extensions shall be included in the total ground-floor area calculation.

(e) All structures, except functionally water-dependent structures, are set back from the normal high water line or upland edge of a wetland to the greatest practical extent, but not less than 100 feet horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate and high value wetlands.

E. Special Review for Single-Family Dwelling on Legal Undersized Lot in a Protected District.

1. This Section 6(E) applies to applications to construct a new single-family dwelling, or to relocate, reconstruct, or replace an existing structure on a legal lot, located in the Shoreland, Resource Protection, Stream Protection or Wetland Protection District, which does not meet the dimensional requirements for a building lot in that district in effect at the time of the application. The term "legal lot" shall include a lot which was part of an approved subdivision and/or a lot which was not part of an approved subdivision and which, from date the lot was created, met the dimensional requirements existing at that time.

2. This Section shall apply only when the Planning Board determines that:

(a) The applicant cannot construct a dwelling in accordance with this Ordinance and meet the setback requirements from both the resource being protected (i.e., pond, stream, wetland, etc.) and the road and all other setback requirements of this Ordinance must be met; and

(b) It is more important from the perspective of protecting the resource that the dwelling must meet the setback from the resource rather than the setback from the road.

(c) The dimensions of the lot are adequate to meet the setback requirements between the dwelling's well and its wastewater disposal system and between its wastewater disposal system and all abutters' water wells as required by the Maine State Plumbing Code.

3. If the Planning Board makes the determinations described in paragraph 2, above, then it may reduce the setback requirement from the road to no less than twenty feet (20') from the

road right-of-way or, if that cannot be determined, forty-five feet (45') from the centerline of the road.

ARTICLE 7. LAND USE DISTRICTS

SECTION 1. LAND USE MAP

All land use activities, as indicated in Table 1, Land Uses, below, shall conform with all of the applicable land use standards contained in this Ordinance. The Official Land Use Map shall be identified by the signature of the Town Clerk. The Official Land Use Map shall be located in the Town office and it shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the Town.

SECTION 2. LAND USE DISTRICTS

The Town of Fayette is hereby divided into the following districts, as shown by the district boundary lines in the Official Land Use Map.

Resource Protection District (RP)
Stream Protection District (SP)
Wetland Protection District (WP)
Shoreland District (SD)
Rural District (RD)
Rural Growth (RG)

SECTION 3. DISTRICT BOUNDARIES

A. The following rules shall be used to interpret the district boundary lines as shown on the Official Land Use Map:

1. Boundaries indicated as approximately following the center lines of streets, highways, or *roads* shall be construed to follow such center lines.

2. Boundaries indicated as approximately following well established lot lines shall be construed as following such lot lines.

3. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits.

4. Boundaries indicated as following shorelines shall be construed to follow the normal high water line, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of stream, *rivers*, lakes or other bodies of water shall be construed to follow such center lines.

5. Boundaries indicated as being parallel to or extension of features indicated in subsections 1 and 2, above, shall be so construed. Distances not specifically indicated on the Official Land Use Map and description of documents and bounds in the deed shall be resolved in favor of the description of *metes and bounds*.

6. Where physical or cultural features existing on the ground are at variance with those on the Official Land Use Map or in circumstances where the items covered by subsection 1 through 5 above are not clear, the Board of Appeals shall interpret the district boundaries.

SECTION 4. DISTRICT PURPOSES

A. Resource Protection District. The Resource Protection District includes areas in which *development* would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the *Shoreland Zone*, exclusive of the Stream Protection District. For the purposes of this paragraph “wetlands associated with *great ponds* and *rivers*” shall mean areas characterized by non-forested wetland vegetation and *hydric* soils that are contiguous with a *great pond* or *river*, and have a surface elevation at or below the water level of the *great pond* or *river* during the period of normal high water. “Wetlands associated with *great ponds* or *rivers*” are considered to be part of that *great pond* or *river*.

(1) Areas within 250 feet, horizontal distance, of the upland edge of *freshwater wetlands* and wetlands associated with *great ponds* and *rivers*, which are:

a. rated “moderate” or “high” value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006;

b. rated “moderate” or “high” value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006; or

c. habitat for species appearing on the official State or Federal lists of endangered or threatened species.

(2) Floodplains along *rivers* and floodplains along artificially formed *great ponds* along *rivers*, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

(3) Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.

(4) Areas of two (2) or more contiguous acres supporting wetland vegetation and *hydric* soils, which are not part of a *freshwater wetland* as defined, and which are not surficially connected to a water body during the period of normal high water.

(5) Land areas along *rivers* subject to severe bank erosion, undercutting, or *riverbed* movement.

B. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the *normal high-water line* of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the *normal high-water line* of a great pond, or *river*, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the Shoreland District associated with that water body or wetland.

C. Wetland Protection District. The Wetland Protection District includes areas within 250 feet of the upland edge of designated wetlands. It provides for some residential and recreational *development* while protecting water quality, natural habitat and scenic values. This district does not include any *forested wetland* districts.

D. Shoreland District. The Shoreland Protection District includes areas within 250 feet of *great ponds*, *rivers* and *freshwater wetlands* not included within the Wetland Protection District or Resource Protection District. It provides for limited seasonal and year-round residential and

recreational *development*, consistent with preservation of water quality. Requirements for this District are found in the Mandatory Shoreland Zoning Act, Title 38, *MRSA* Section 435, Section 438 et seq.

E. Rural District. The Rural District covers most land within the Town of Fayette. It provides for *agriculture*, forestry, low density residential and recreational *development*, and some commercial activities, consistent with the rural open space qualities predominant in the Town. The Rural District only includes land outside the *Shoreland Zone*.

F. Rural Growth District. The Rural Growth District covers those areas of town specifically designated for *development*. It provides for higher density residential *development* and commercial activities. The Rural Growth District only includes land outside the *Shoreland Zone*.

SECTION 5. TABLE OF LAND USES

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

ABBREVIATIONS FOUND IN LAND USE TABLE: Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards)
Check with Table of Contents to find applicable provision(s)

No - Prohibited

PB - Allowed with permit issued by the Planning Board

CEO - Allowed with permit issued by the *Code Enforcement Officer*. Numbers in parentheses refer to the footnotes at the end of the Land Use Table.

SB - Allowed with permit issued by the *Fayette Select Board*

LPI – Licensed Plumbing Inspector – permit may be required.

N/A – Not applicable.

The numbers 1-6 which may follow the word “Key” refer to the exceptions or provisions described at the end of the Land Use Table section.

Abbreviations:

RP - Resource Protection

SD - Shoreland District

SP - Stream Protection

RD - Rural District

WP - Wetland Protection

RG - Rural Growth

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

TABLE 1. LAND USES

	District					
	RP	SP	WP	SD	RD	RG
Accessory Structures	PB Key #2	PB Key #2	CEO Key #2	CEO	CEO	CEO
Agriculture	PB	CEO	CEO	CEO	YES	YES
TABLE 1. LAND USES	RP	SP	WP	SD	RD	RG
Auto Repair & Service	NO	NO	NO	NO	PB	PB
Cemeteries	NO	NO	NO	NO	PB	PB
Campground	NO	NO	PB	PB	PB	PB
Clearing or removal of vegetation for activities other than Timber Harvesting.	PB Key #1	CEO	CEO	CEO	YES	YES
Commercial - Large	NO	NO	NO	NO	PB	PB
Commercial - Resource	NO	PB Key #2	PB	PB	PB	PB
Commercial - Small	NO	PB	PB	PB	PB	PB
Communication towers	PB	PB	PB	PB	PB	PB
Conversion – residence from seasonal to year- round -1 ST 100 ft. from shoreline	PB	PB Key #6	PB/ Key #6	PB Key #6	CEO	CEO
Conversion - residence from seasonal to year- round >100 ft. from shoreline	PB	CEO Key #6	CEO/ Key #6	CEO Key #6	Yes	Yes
Culverts	PB	PB	PB	PB	CEO	CEO
Emergency operations	YES	YES	YES	YES	YES	YES
Essential Services	PB	PB	PB	PB	YES	YES
Family Burial Plots	NO	NO	PB	PB	PB	PB
Fill & earth moving greater than 10 cubic yards	CEO	CEO	CEO	CEO	YES Key #3	YES Key #3
Fill & earth moving less than 10 cubic yards	CEO	CEO	CEO	YES	YES	YES
	YES	YES	YES	YES	YES	YES

Fire prevention activities						
Forest Management	PB	PB	PB	PB	CEO	CEO
Government & Institutional	NO	PB	PB	PB	PB	PB
TABLE 1. LAND USES	RP	SP	WP	SD	RD	RG
Home Occupation	CEO	CEO	YES	YES	YES	YES
Individual Campsite	PB	CEO	CEO	CEO	CEO	CEO
Junkyards & Auto Graveyards	NO	NO	NO	NO	SB	SB
Marinas	NO	NO	NO	PB	N/A	N/A
Mineral Extraction	NO	NO	NO	NO	PB	PB
Mineral Exploration	NO	NO	NO	NO	YES	YES
Mobile home parks	NO	NO	PB	PB	PB	PB
Multi-unit residential	NO	NO	NO	PB	PB	PB
1 & 2 family dwelling	PB Key #4	PB Key #2	PB	PB	CEO	CEO
Parking areas	NO Key #5	PB Key #2	PB	PB	CEO	CEO
Permanent pier or dock.	NO	PB	PB	PB	YES	YES
Rear lot	NO	NO	NO	NO	YES	YES
Recreation – active	PB	PB	PB	PB	PB	PB
Recreation - passive	YES	YES	YES	YES	YES	YES
Road & driveway<500 ft	PB	PB	PB	PB	CEO	CEO
Road & driveway>500 ft	NO	PB	PB	PB	PB	PB
Subdivisions	PB	PB	PB	PB	PB	PB
Temporary pier or dock	CEO	CEO	CEO	CEO	N/A	N/A
Uses similar to uses requiring CEO Permit	CEO	CEO	CEO	CEO	CEO	CEO
Uses similar to uses requiring PB Permit	PB	PB	PB	PB	PB	PB

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

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

KEY:

1. In RP not allowed within 75 feet horizontal distance, of the *normal high-water line of great ponds*, except to remove safety hazards.
2. Provided that a variance from the *setback* requirement, if required, is obtained from the Board of Appeals.
3. If more than 100 cubic yards of earth moving need CEO approval.
4. Single family residential structures may be allowed by special exception only in accordance with the provisions of Article 6 Section 6 (E); two family residential structures are prohibited.
5. Except when area is zoned for Resource Protection due to floodplain criteria in which case a permit is required from the Planning Board.
6. Licensed Plumbing Inspector permit may be needed.

SECTION 6. DIMENSIONAL REQUIREMENTS

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

A. Table of Dimensional Requirements

	Resource Protection	Wetland District	Stream Protection	Shoreland	Rural	Rural Growth
Lot Size (Note # 1)	1 acre	2 acres	1 acre	1 acre	2 acres	1 acre
Road Frontage	150 feet	200 feet	150 feet	150 feet	200 feet <u>(see B.8., below)</u>	200 ft
Road Setback (ft.) (Note #3)	50/75	50/75	50/75	50/75	50/75	50/75
Side Setback	15 feet	15 feet	15 feet	15 feet	25 feet	15 feet
Rear Setback feet	15 feet	15 feet	15 feet	15 feet	25 feet	15 feet
Maximum Building Height (Note #4)	*	*	*	*	35 feet	35 feet
(See Note 4 [a,b,c,d & f])						
Shore Frontage (Note # 2)	200 feet	200 feet	200 feet	200 feet	N/A	N/A
Shore Setback (note #5)	250 feet	100 feet	75 feet	100 feet	N/A	N/A
Maximum Impervious Area (Note # 6)	20%	20%	20%	20%	35%	50%

NOTES

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

2. The minimum *shore frontage* of any Commercial, *Institutional* or Government structure located in a Shoreland, Stream Protection, Wetland and Resource Protection Districts shall

be 300 feet.

3. *Road Setback*. First number is measured from the *Road* Right-of-way and the second number is measured from the centerline of the *road*. Whenever the *road* right-of-way cannot be determined the measurement from the *road* centerline shall prevail.

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

a. The maximum height of any portion of a structure located from 25 to 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater

b. The maximum height of any portion of a structure located from 75 to 100 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the *floor area* and height limits of paragraph Article 2, Section 3 A (1)(c) in the Land Use ordinance.

c. The maximum height of any portion of a structure that is from 100 to 250 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 35 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 100 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the *floor area* and height limits of Article 2, Section 3 A 1 (c, d) in the Land Use ordinance.

d. Height requirements do not apply to chimneys, towers, and agricultural structures.

e. In Rural & Rural Growth building height in excess of 35 feet requires Planning Board approval.

f. In all Districts, building height is measured from the downhill side of the building to the roof peak.

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

6. Impervious areas include all buildings, structures and all non-vegetated areas. The maximum applies except as otherwise required by the State Stormwater Law.

B. Other Dimensional Requirements:

1. Land below the normal high water line of a water body or below the upland edge of a wetland and land beneath *roads* serving more than 2 lots shall not be included toward calculating the minimum *lot area*.

2. Lots located on opposite sides of a public or private *road* shall be considered each a separate tract or parcel of land unless such *road* was established by the owner of land on both sides thereof after September 22, 1971.

3. For lots in the Resource Protection, Stream Protection, Wetland Protection and Shoreland Districts, the minimum width of any portion of any lot within one hundred (100) feet,

horizontal distance, of the *normal high-water line* of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

4. If more than one residential dwelling or more than one principal commercial or *industrial* structure or use is constructed on a single parcel, all *dimensional requirements* shall be met for each additional dwelling or *principal structure* or use. However, multi-family dwellings shall conform to the *dimensional requirements* contained in Article 8, Section 24, below.

5. The shore setback requirements shall apply neither to structures which require direct access to the water as an operational necessity such as *piers, docks* and retaining walls, nor to other functionally water dependent uses.

6. The lowest elevation or openings of all buildings and structures including *basements* (both windows and doors) shall be elevated at least one foot above the 100 year flood plain, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils.

7. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the *Code Enforcement Officer*, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the *normal high-water line* of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable alternative access exists on the property.

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

a. The area of the Rear Lot shall be at least the minimum required in the district in which it is located.

b. The total Road Frontage of the front lot, less the width of the access, shall continue to equal or exceed the minimum Road Frontage required in the district. Where the access bisects the front lot line, the Road Frontage on either side of the access may be combined to meet this requirement, and the front lot shall continue to be treated as a single, undivided lot.

c. The access to the Rear Lot may not serve more than two Rear Lots, or not more than two single-family dwellings, or one two-family dwelling.

d. No more than one access for Rear Lot development may be created out of any single lot fronting on a public or private road unless each subsequent access is created out of additional Road Frontage as required for that district, measured from the center lines of the accesses.

e. No Structure shall be located within the limits of an access.

f. A sketch of the access shall be included in the building permit.

g. The Rear Lot shall not be required to have frontage on the access.

h. The provisions of this paragraph 8 shall not create a lot which is exempt from any subdivision review and approval which may otherwise be required.

i. Any Rear Lot, together with any right-of-way or access serving it, created before the adoption of this paragraph 8 shall be considered a Legal Non-Conforming Lot, and may be used in accordance with all other applicable provisions of law and ordinance.

j. The access to a Rear Lot shall be at least 30 feet in width.

ARTICLE 8 - LAND USE STANDARDS

SECTION 1. APPLICABILITY

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

SECTION 2. WELLS, INTERNAL PLUMBING AND SUBSURFACE WASTEWATER DISPOSAL

A. No permit shall be issued for any structure or use involving construction or alteration of plumbing facilities unless a valid Plumbing Permit has been secured by the applicant in accordance with the Subsurface Wastewater Disposal Rules and the Internal Plumbing Rules.

B. In accordance with Article IV, Section 6(C), a notice to each *abutter* is required with regard to any permit application for the installation or relocation of any well and private sewage disposal system on land parcels less than one acre in size. Notice to *abutters* is also required for those land parcels of any size that adjoin a parcel of record that is less than one acre in size, where wells or sewage disposal system are proposed within 100 feet of the adjoining property lines.

C. All public beach and vehicular accessed boat ramps shall be served by an approved subsurface wastewater disposal system. Provisions shall be developed to provide for the maintenance of the system.

D. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the *normal high-water line* of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the *Shoreland Zone*, Wetland and Stream Districts and the Resource Protection District. (Title 22 *MRSA* Article 42).

SECTION 3. PIERS, DOCKS, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND THE NORMAL HIGH WATER LINE OF A WATER BODY OR WITHIN A WETLAND

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

B. The location shall not interfere with existing developed or natural beach areas.

C. The facility shall be located so as to minimize adverse effects on fisheries.

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

E. Only one (1) dock and one (1) float/raft shall be permitted per shoreland lot or, if a lot has more than 200 feet frontage, only one (1) dock and one (1) float/raft per 200 feet.

F. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.

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

H. Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond *the* normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above *the* pier, wharf, dock or other structure.

I. All setbacks that apply to land structures shall apply to structures attached to the land that extend beyond the high-water line (e.g. docks) and shall be constructed so as not to interfere with access to the property or right-of-way of abutting property.

SECTION 4. CAMPGROUNDS

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

A. *Campgrounds* shall contain the following amount of land for each campsite not including *roads* and *driveways*:

1. For areas within the Resource Protection, Wetland, Stream and Shoreland Districts the minimum land area per camp site shall be 5,000 square feet, and,

2. For areas within the Rural and Rural Growth Districts the minimum land area per campsite shall be 2,500 square feet.

3. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

B. The areas intended for placement of a *recreational vehicle*, tent or shelter and utility and service buildings shall be set back a minimum of 100 feet from the *normal high-water line* of a *great pond* classified GPA or a *river* flowing to a *great pond* classified GPA and 75 feet from the *normal high-water line* of other water bodies, tributary streams, or the upland edge of a wetland.

SECTION 5. INDIVIDUAL PRIVATE CAMPSITES

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

A. One campsite per lot existing on the effective date of this Ordinance, or per the minimum lot size for the district in which it is located, whichever is less, may be permitted

B. Campsite placement on any lot, including the area intended for a *recreational vehicle* or tent platform, shall be set back 100 feet from the *normal high-water line* of a *great pond* classified GPA or *river* flowing to a *great pond* classified GPA and seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

C. *Recreational vehicles* shall not be located on any type of permanent *foundation* except for a gravel pad, and no structure(s) except canopies shall be attached to the *recreational vehicle*.

D. In the Shoreland District only one (1) recreational vehicle shall be allowed on a campsite.

E. The clearing of vegetation for the siting of the *recreational vehicle*, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet.

F. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the *Code Enforcement Officer*. Where disposal is off-site, written authorization from the receiving facility or landowner is required.

G. When a *recreational vehicle*, tent or similar shelter is placed on-site for more than 120 days per year, all requirements for residential structures shall be met including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

SECTION 6. PARKING AREAS

A. Parking areas shall meet the shoreline and tributary stream *setback* requirements for structures for the district in which such areas are located. The *setback* requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

B. Parking areas shall be: adequately sized to handle the traffic generated by the proposed use; designed to prevent storm water runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site; and, no required parking or loading areas shall be located on the *road*.

C. In determining the appropriate size of proposed parking facilities, the following shall apply:

1. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

2. Internal travel aisles: Approximately twenty (20) feet wide.

D. Parking areas are not subject to the property line and road setback requirements under Article 7, Section 6, Table of Dimensional Requirements, provided all requirements of Article 7, Section 7-M are met and the parking area does not serve more than 2 lots.

SECTION 7. ROADS, DRIVEWAYS, CULVERTS AND ENTRANCES

After obtaining an entrance permit from the Road Commissioner or the D.O.T. for access to a town or state road, the construction of *roads*, *driveways*, related drainage systems, culverts and other related features shall meet the following standards and shall further meet the *Road* and Traffic Standards as contained in the Town of Fayette Subdivision Ordinance, Section 8, subsection O.

A. *Roads* and *driveways* shall be set back at least one-hundred (100) feet, horizontal distance, from the *normal high-water line* of a *great pond classified GPA*, and seventy-five (75) feet, horizontal distance from the *normal high-water line* of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists, as determined by the Planning

Board. If no other reasonable alternative exists, the *road* and/or *driveway setback* requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

C. Section 7 (A) does not apply to approaches to water crossings or to *roads* or *driveways* that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. *Roads* and *driveways* providing access to permitted structures within the *setback* area shall comply fully with the requirements of Section 7 (A) except for that portion of the *road* or driveway necessary for direct access to the structure.

D. Existing public *roads* may be expanded within the legal *road* right-of-way regardless of its *setback* from a water body with Planning Board review and approval.

E. New permanent *roads* are not permitted within the Shoreland, Stream Protection, Wetland and Resource Protection Districts except:

1. To provide access to structures or facilities within the district; or
2. The applicant demonstrates that no reasonable alternative route exists outside the district;
3. When *roads* must be located within the district they shall be set back as far as practicable from the normal high-water line and screened by existing vegetation.

F. New *roads* and *driveways* are prohibited in the Resource Protection District except that the Planning Board may grant a permit to construct a *road* or *driveway* to provide access to permitted uses within the district. A *road* or *driveway* may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a *road* or *driveway* is permitted in a Resource Protection District the *road* and/or *driveway* shall be set back as far as practicable from the *normal high-water line* of a water body, tributary stream, or upland edge of a wetland.

G. *Road* and *driveway* banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in this Ordinance.

H. *Road* and *driveway* grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

I. In order to prevent *road* and *driveway* surface drainage from directly entering water bodies, tributary streams or wetlands, *roads* and *driveways* shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the *normal high-water line* of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an

unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

J. Ditch relief (cross drainage) culverts, *drainage dips* and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the *road, driveway, or ditch*. To accomplish this, the following shall apply:

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

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

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

3. On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle down-slope from a line perpendicular to the centerline of the *road or driveway*.

4. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

K. Ditches, culverts, bridges, *drainage dips*, water turnouts and other storm water runoff control installations associated with *roads and driveways* shall be maintained on a regular basis to assure effective functioning.

L. The minimum pipe size for any storm drainage pipe shall be fifteen (15) inches for *driveway* entrances and eighteen (18) inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet. The pipe shall be bedded in a fine granular material, containing no stones larger than three (3) inches, lumps of clay, or organic matter, reaching a minimum of six ((6) inches below the bottom of the pipe extending to six (6) inches above the top of the pipe.

M. Roads and Driveways are not subject to the property line and road setback requirements under Article 7, Section 6, Table of Dimensional Requirements, provided the following requirements are met:

1. The road or driveway serves no more than 2 lots.
2. If a road or driveway must be located closer to the property line than 10', the permitting authority shall review and approve the location based on the following:

2-A. The applicant cannot construct a driveway/road that would meet the setback requirements from both the resource being protected (i.e. pond, lake, stream,

wetland, etc.) and the property line/road setbacks, and it is more important from the perspective of protecting the resource that the driveway/road must meet the setback from the resource rather than the setback from the property line/road; and/or

2-B. The need to locate the driveway/road near the property line is due to topography and/or the amount of disturbance that would impact the surrounding area and water runoff issues; and/or

2-C. The location of the driveway/road is a deeded access in existence prior to the adoption of this ordinance; and/or

2-D. If the driveway/road must be located closer than 5' to a property line, a notified letter from the abutter shall be given to the Code Enforcement Officer for the record and it shall be recorded at the Kennebec Registry of Deeds. This does not apply to deeded accesses in existence prior to the adoption of this ordinance.

SECTION 8. SIGNS

A. "Official business directional signs" on all public ways in the Town shall be governed by Title 23 Maine Revised Statutes §1903. Permits for them shall be obtained from the Maine Department of Transportation. To the extent that any provision of this Ordinance is less strict than Title 23 Maine Revised Statutes Chapter 21, Chapter 21 shall control.

B. Signs and billboards relating to goods and services sold on the premises shall be permitted. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited with the exception of small directional signs, six (6) square feet or less, which are permitted.

C. Any sign located within the Wetland, Stream Protection, Resource Protection and Shoreland Districts shall be limited to a total of two (2) signs per premise and shall not exceed 6 square feet per sign. Signs within the Rural and Rural Growth Districts shall be limited to a total of three (3) signs per premise and each sign shall not exceed thirty-two (32) square feet

D. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises and do not exceed six (6) square feet in area in the aggregate.

E. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed 2 square feet in area.

F. Signs relating to public safety shall be permitted without restriction.

G. No sign shall extend higher than 20 feet above the ground.

H. Signs may be illuminated only by full-cutoff, non-flashing lights.

I. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

SECTION 9. STORMWATER RUNOFF

A. All new construction and *development* shall be designed to minimize storm water runoff from the site in excess of the natural *pre-development* conditions. Any increase in stormwater flow shall not create soil erosion, flooding, property damage, damage to natural resources or create safety hazards to downstream properties. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage

infiltration of stormwaters.

B. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

C. The following stormwater standards shall apply to all *development* that exceeds 3,000 square feet of building footprint or has more than 20,000 square feet of impervious area.

1. A stormwater control plan shall be developed to limit peak discharge from the site to *pre-development* levels through a system of swales, culverts, and best management practices equivalent to those described in the current edition of "Stormwater Management for Maine: Best Management Practices" published by the Maine Department of Environmental Protection, 2007.

2. Peak Discharges shall be limited to the *pre-development* levels for the 2-year, 10-year and 25-year frequency 24-hour duration storm.

SECTION 10. PHOSPHORUS CONTROL

The following standards shall apply to all *development* located in the direct watershed of a *great pond* except for residential dwellings and agricultural uses. 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, revised 2002.

SECTION 11. ESSENTIAL SERVICES

A. Where feasible, the installation of *essential services* shall be limited to existing public ways and existing service corridors.

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

C. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

SECTION 12. MINERAL EXPLORATION AND EXTRACTION

A. *Mineral exploration* to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the *Code Enforcement Officer* shall be required for *mineral exploration* which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

B. *Mineral extraction* may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of paragraph 3 below.

2. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the *normal high-water line*

of a *great pond classified GPA* or a *river* flowing to a *great pond classified GPA*, and within seventy-five (75) feet, horizontal distance, of the *normal high-water line* of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

3. Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12 month period, ground levels and grades shall be established in accordance with the following:

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

b. The final graded slope shall be two to one (2: 1) slope or flatter;

c. Topsoil or loam shall be retained to cover all disturbed land areas, which shall be re-seeded and stabilized with vegetation *native* to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with *mineral extraction* operations on surrounding uses and resources.

SECTION 13. AGRICULTURE

A. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of *Agriculture* on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

B. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a *great pond classified GPA* or a *river* flowing to a *great pond classified GPA*, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the *Shoreland District* must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

C. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, or the spreading disposal or storage of manure within a Resource Protection, Stream Protection, Wetland or Shoreland Districts shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan will be considered to be a violation of this Ordinance.

D. There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high water line of a *great pond classified GPA*; within 75 feet, horizontal distance, from other water bodies; nor within 25 feet, horizontal distance, of tributary streams, and wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained

E. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the *normal high-water line* of a *great pond classified GPA*; within seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities, and which are

not in conformance with the above *setback* provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

SECTION 14. CLEARING OR REMOVAL OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING.

A. Within a Resource Protection District abutting a *great pond*, no cutting or removal of vegetation is permitted within the strip of land extending 100 feet horizontal distance, inland from the *normal high-water line*, except to remove safety hazards.

Elsewhere, in any Resource Protection District the clearing of vegetation must be limited to that which is necessary for uses expressly authorized in that district.

B. Except in areas as described in Paragraph A, above, and except to allow for the *development* of permitted uses, within a strip of land extending 100 feet, horizontal distance, inland from the *normal high-waterline* of a *great pond classified GPA* or a *river* flowing to a *great pond classified GPA*, and 100 feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation must be preserved as follows:

1. There must be no cleared opening greater than 250 square feet in the forest *canopy* as measured from the outer limits of the tree crown. However, a footpath not to exceed 6 feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created.

2. Minimal cutting of trees within the buffer strip is permitted (e.g. safety hazards, dead trees) provided that a well distributed stand of trees is maintained. For the purposes of this section a "well-distributed stand of trees " adjacent to a *great pond classified GPA* or a *river* or stream flowing to a *great pond classified GPA* is defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system:

<u>Diameter of tree at 4 1/2 feet above ground</u>	<u>Points</u>
2 to 4 inches	1 point
more than 4 inches and up to 12 inches	2 points
more than 12 inches	4 points

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

Note: As an example, adjacent to a *great pond*, if a 25 foot x 25-foot plot contains three (3) trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is: $(3 \times 1) + (3 \times 2) + (3 \times 4) = 21$ points.

Thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling 9 points ($21 - 12 = 9$) may be removed from the plot provided that no cleared openings are created.

3. Within a strip of land extending 100 feet, horizontal distance, inland from the normal highwater line of a *great pond classified GPA*, a *river* flowing to a *great pond classified GPA*, and within 100 feet of any other waterbody or wetland, existing vegetation under three (3) feet in height and other *ground cover* may not be removed, except to provide for a footpath or other permitted uses as described in paragraph 2 above. In addition, within 100 feet, horizontal distance of the above noted waterbodies and wetlands, at least three (3) saplings less than two (2) inches in diameter at four and one-half (1/2) feet above ground level must be retained in each 25-foot by 25-

foot rectangular area described in Article 8 Section 15 (B)(2) of the Ordinance. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited into the plot.

4. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.

5. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings must be replanted with *native* tree species unless existing new tree growth is present.

6. The provisions contained in paragraph B (1), (2), (3), (4), and (5), above; do not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the area necessary. A vegetated buffer area is required to off-set any loss of vegetation.

C. At distances greater than 100 feet, horizontal distance, from a *great pond classified GPA* or a *river* flowing to a *great pond classified GPA*, and 100 feet, horizontal distance, from the *normal high-water line* of any other water body, tributary stream, or the upland edge of a wetland, cutting of trees and removal of vegetation is permitted for approved uses such as residential construction, *accessory structures, driveways*, underground waste water systems, other approved structures and paths. Timber harvesting may be allowed as described in Section 14(A) and (B), above.

In no event can cleared openings for *development* in Protected Districts, including but not limited to, principal and *accessory structures, driveways* and sewage disposal areas, exceed in the aggregate, 20% of the *lot area* or 10,000 square feet, whichever is greater, including land previously developed. (See Dimensional Chart, Article VII, Section 6.)

D. Cleared opening(s) legally in existence on the effective date of this ordinance may be maintained, but shall not be enlarged, except as permitted by this ordinance. For the purposes of this section, maintained shall mean at least once every 18 months.

SECTION 15. EROSION AND SEDIMENTATION CONTROL

A. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

1. Mulching and re-vegetation of disturbed soil;
2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches;
3. Permanent stabilization structures such as retaining walls or *riprap*.

B. In order to create the least potential for erosion, *development* shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

C. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

D. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of *riprap*, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within 9 months of the initial date of exposure. In addition:

1. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

2. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

E. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

SECTION 16. SOILS

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or *industrial development* and other similar intensive land uses shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified *persons* may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other *persons* who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

SECTION 17. WATER QUALITY

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

SECTION 18. ARCHAEOLOGICAL, HISTORIC, WILDLIFE HABITAT, SCENIC AREAS AND RARE AREAS AND RARE AND NATURAL AREAS

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

A. If any portion of the developed area is designated as a significant archeological or historic site by the Maine Historic Preservation Commission, Fayette Comprehensive Plan or listed on the National Register of Historic Places, the applicant shall develop appropriate measures for the protection of these resources according to local, state and federal regulations.

B. If any portion of the developed area is located within an area designated as a scenic area or a unique natural area by the Maine Natural Areas Program or the Fayette Comprehensive Plan, the applicant shall develop appropriate measures for the preservation of the values which qualify the site for such designation.

C. If any portion of the developed area is within a wildlife habitat area, the applicant shall consult with the Maine Department of Inland Fisheries and Wildlife or a qualified biologist and develop measures to protect these areas from environmental damage and habitat loss. Wildlife areas include the following:

1. Habitat for endangered species appearing on the official state or federal list of endangered or threatened species.

2. Moderate or high value waterfowl and wading bird habitats, including nesting and feeding areas, as defined by the Maine Department of Inland Fisheries and Wildlife.

3. High and moderate deer wintering areas as identified by the Maine Department of Inland Fisheries and Wildlife.

SECTION 19. AQUIFERS

Any *development* proposed within a Sand and Gravel Aquifer or significant bedrock aquifers as identified in the Fayette Comprehensive Plan shall be designed and constructed so as not to cause any pollution or contamination of the aquifer. A ground water protection plan developed by a certified hydrologist shall be required for the following *development* proposals: *industrial* use; manufacturing facility, auto junkyard; auto repair, chemical storage or processing facility; oil or fuel storage facility; truck repair; and, any structure with oil, fuel or chemical storage that exceeds a total of 1,000 gallons for the entire site.

SECTION 20. HOME OCCUPATION

A. *Home occupations* are business or commercial activities that are conducted in a dwelling by one or more family members residing in the home. The specific occupation must be compatible with the residential character of both the building and the neighborhood. The *home occupation* use is designed for low impact business activities that can co-exist with residential neighborhoods without causing noise, odors, excessive traffic or detract from the comfort and expectations of homeowners.

B. The use of a dwelling shall be clearly incidental to and compatible with the residential use of the property and surrounding residential uses. The *home occupation* shall be carried on wholly within the principal building or within a building or other structure accessory to it. The outside storage and processing of materials or products shall be prohibited.

C. All necessary parking shall be provided off the street. The traffic generated by the *home occupation* shall not create greater traffic than normal for the area in which it is located.

SECTION 21. COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL STANDARDS

A. The following standards shall apply to all land uses defined as commercial, *industrial*, government, *institutional*, commercial resource, auto repair and service and *campgrounds* that contain more than 5 campsites, as listed in the Land Use Table.

1. Adequate provisions shall be made for the storage and disposal of all solid waste. All solid waste storage areas shall be shielded from public view.

2. All manufacturing and processing shall be conducted within an enclosed area of a structure. When outside processing or other activities are unavoidable or necessary due to the nature of the operation, it shall be concealed from public view by a natural or constructed screen. The screen shall be a minimum height of 8 feet and shall be adequate to block the outside activity completely from public view. The screen may consist of a fence, vegetative buffer, berm, or combination thereof. The screen shall be designed to block outside activity from view throughout the year.

3. Public view shall mean the view from the property line from the abutting property and from any point across the *road* parallel to the frontage of the site.

4. All lighting fixtures shall be full cutoff so that lighting elements are not exposed to normal view by motorists, pedestrians or from adjacent structures. Illumination shall not exceed ½ foot-candles at the property line.

5. No lighting fixture, except streetlights, shall extend beyond a height of 25 feet as measured from the roadway.

B. ROAD ACCESS STANDARDS

1. The *road* access shall be located and designed in profile and grading to provide the required sight distance measured in each direction. Sight distance shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curb line or edge of the shoulder, with the height of the eye 3 1/2 feet to the top of an object above the pavement. Minimum sight distance of 10 feet for each mile per hour of posted speed limit shall be provided.

2. A maximum of two access points may be provided for each *development*. These accesses shall be either one-way or two-way operations and shall intersect the *road* at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

3. The *road* access shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from the gutter line on a straight slope of 3% or less for at least 75 feet.

4. The Planning Board may require a traffic study to be performed if the proposed use would generate more than 100 vehicle trips per day.

C. LANDSCAPING AND BUFFER STANDARDS

1. 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.

2. 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.

SECTION 22. BUILDING STANDARDS

No residential structure may be occupied without a Certificate of Occupancy obtained from the *Code Enforcement Officer*. This does not apply to existing structures. However, residential structures that have been rendered non-habitable as a result of partial destruction by natural or other causes, and partially re-constructed, may require *Code Enforcement Officer* review and permit.

SECTION 23. MULTI-FAMILY DWELLINGS

Multi-family dwellings shall meet the following requirements:

A. The minimum lot size required for a multi-family dwelling in a Shoreland and Stream Protection Districts shall be the product of the number of dwelling units times the minimum lot size required for single family dwellings.

B. In all other Districts it shall be the product of the number of dwelling units times the minimum lot size, plus one minimum base lot.

C. Any multi-family dwellings that existed prior to the adoption of this Ordinance that do not meet these requirements shall be allowed to continue, but will not be allowed any expansion of size or use.

SECTION 24. MOBILE HOMES AND MOBILE HOME PARKS

A. The installation of all mobile homes must follow the State of Maine Manufactured Home Installation Standard, Chapter 900. A copy shall be kept on file at the Town Office.

B. All *mobile home parks* are subject to the Town of Fayette Subdivision Ordinance and must meet the requirements of Title 30A *MRSA* Section 4358 as may be amended.

SECTION 25. COMMON SHORELAND ACCESS

The use of any property for common shoreland access shall require a minimum shoreline frontage of 300 feet and an additional 25 feet for each dwelling site beyond the third using the common shoreland access. Any recreational facilities associated with the common access, such as beaches, docks, picnic areas etc. shall be a minimum of seventy-five (75) feet from the side lot lines.

SECTION 26. AUTOMOBILE GRAVEYARDS AND JUNKYARDS

A. All *automobile graveyards*, automobile recycling business and *junkyards* must be licensed in accordance with Title 30-A *MRSA* Sections 3751 through 3760.

B. There is no *grandfathering* clause, so-called, permitting uses in existence before the enactment of this Ordinance.

C. Any new *automobile graveyard*, automobile recycling business and *junkyard* must obtain a permit from the *Select Board*. A permit from the *Select Board* will be issued in accordance with Title 30-A *MRSA*, Sections 3751 through 3760.

D. Design Standards: All applications reviewed by the Select Board after the effective date of

this Ordinance shall meet the following requirements:

1. The area used for the facility shall be *set back* a minimum of 75 feet from all property lines.

2. A buffer consisting of vegetation, fences, or berms or any combination thereof shall be installed along all property lines and shall be capable of providing a year-round screen to a height of 8 feet. The landscaping and buffer requirements contained in Article 8, Sections 20 and 22 shall also be followed.

ARTICLE 9. DEFINITIONS

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

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

Active Recreation - a public, private or commercial *recreational facility* which involves *development* or structures such as but not limited to; amusement parks and arcades, bowling alleys, golf courses and ranges, motor cross tracks, skating rinks, skate board parks and health clubs as well as other forms of recreational facilities.

Agriculture - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. *Agriculture* does not include *forest management* and timber harvesting activities.

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

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

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

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

Automobile Service and Repair - a business establishment engaged in general repair, engine

rebuilding, parts replacement, muffler replacement, oil and lube service, brake service, auto glass, auto body repair, auto painting, car washing, undercoating, motorcycle repair, *recreational vehicle* repair such as snowmobiles, ATV's, boat engines, and small engine repair.

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

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

Brook – See “Stream Channel”

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

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

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

Commercial Large - a retail, service or office use or any combination thereof that consists of more than 2,000 square feet of *floor area*.

Commercial Resource - the processing, cutting and finishing of raw logs into finished products, or the manufacturing, handling, treatment or packing of crops, livestock or dairy products produced or raised on farms, and related activities such as storage and sales. This definition excludes rendering plants, fertilizer manufacturing plants and similar operations.

Commercial Small - a retail, service, or office, use or any combination thereof that consists of less than 2,000 square feet of *floor area*.

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

Communication Tower – a structure on which commercial transmitting and/or receiving antenna are located.

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

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

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

Development - a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring. This definition excludes *family* gardening as well as minor landscaping intended to improve or enhance the

appearance of buildings and grounds.

Dimensional Requirements - numerical standards relating to spatial relationships including but not limited to *setback*, *lot area*, *shore frontage*, height and width.

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

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

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

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

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two lots or fewer.

Dwelling - a building or place of shelter to live in; a place of residence, abode, home.

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

Essential Services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include *service drops* or buildings which are necessary for the furnishing of such services.

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

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

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

Fire Prevention Activities - any action or activity deemed necessary by the Town of Fayette Fire Chief to protect the public and property from the potential spread of fire according to sound methods

and practices of fire prevention.

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

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

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

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

Freshwater Wetland - freshwater swamps, marshes, bogs and similar areas, other than *forested wetlands*, which are:

1. of ten or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any *river*, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and:

2. inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and:

3. Not part of a Great Pond, stream, or river.

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

Full-cutoff Light – a luminaire light distribution where zero (0) candela intensity occurs at an angle of ninety (90) degrees above nadir, and at all greater angles from nadir.

Functionally Water-dependent Uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, (excluding recreational boat storage buildings), finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, *marinas*, navigation aids, basins and channels, retaining walls, *industrial* uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters.

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

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

Great pond classified GPA - any *great pond classified GPA*, pursuant to Title 38 Article 4-A Section 465-A. This classification includes some, but not all impoundments of *river*s that are defined

as *great ponds*.

Greatest Practical Extent- is defined as it applies to the protection of the resource.

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

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

Home Occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) *persons* other than family members residing in the home.

Hydric - pertaining to or adapted to a wet or moist environment.

Increase in Nonconformity of a Structure - Any change in a structure or property which causes further deviation from the dimensional standards creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland *setback* distance, increase in lot coverage, or increase in *height of a structure*. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in non-conformity with the *setback* requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required *setback* area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, wetland or tributary stream than the closest portion of the existing structure from that water body, wetland, or tributary stream, or vertically, if the structure does not exceed the maximum height allowed in the district in which it is located. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

Industrial - the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

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

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

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

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

effect.

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

Legislative Body - the Legislative Body for the Town of Fayette is the Town Meeting.

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

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

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

Metes and bounds - measurements of the limits of boundaries; dimensions

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

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

Minimum Lot Width - the closest distance between the side lot lines of a lot.

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

MRSA - Maine Revised Statutes Annotated.

Multi-unit Residential - a residential structure containing three (3) or more *residential dwelling units*.

Native - flora that are indigenous to the local forests.

Non-Intensive Recreation - Outdoor recreation activities which involve no structural or mechanical components or facilities such as hiking, fishing, hunting and snowmobiling.

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

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

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

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

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

Piers, docks, floats/rafts, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland - Temporary structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months. Permanent structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

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

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

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

Public Hearing - a meeting the primary purpose of which is to present an issue to the public & receive feedback about it. Decisions are not made at a *public hearing*.

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

Rear Lot – A lot which does not meet the Road Frontage requirement for the district in which it is located. Rear Lot does not include legally-existing Non-conforming Lots which do not meet the Road Frontage requirements for the districts in which they are located.

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

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

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

Recreational Vehicle - a vehicle, or an attachment to a vehicle intended to be towed and that is designed for temporary sleeping or living quarters for one or more *persons*, and which may include a

pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement System - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

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

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

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

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

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

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

Seasonal Structure and Use - a residence intended for use or occupancy for fewer than seven (7) months within any consecutive 12 month period.

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

1. in the case of electric service:
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.

Service Drop (cont.) -

2. in the case of telephone service:
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Select Board - elected officials of the town, previously referred to as "Selectmen."

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

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

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

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

Significant Wildlife Habitat – is defined by 38 MRSA, chapter 3, article 5-A.

Stream - a free-flowing body of water from the outlet of a *great pond* or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a *river* or flows to another water body or wetland within the *Shoreland* area.

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

Structure - anything built for the support, shelter or enclosure of *persons*, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with *service drops* as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, but excluding personal residential TV satellite dishes. Roads and driveways serving 2 lots or fewer shall be excluded provided the criteria of Article 8, Section M are met.

Subdivision - the division of a tract or parcel of land into 3 or more lots within any five-year period. This applies whether the division is accomplished by sale, lease, *development*, and buildings or otherwise. This also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction of 3 or more dwelling units on a single tract or parcel of land, and the division of an existing structure or structures previously used for commercial or *industrial* use into 3 or more dwelling units within a 5-year period. *Title 30-A MRSA Sec. 4358*

Substantial Start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System - any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields;

grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

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

Timber Harvesting and Related Activities – (Repealed to State Wide Standard, see State Wide Timber Harvesting Regulations). The cutting or removal of trees in the Protected Districts on a lot that has less than two (2) acres within Protected Districts shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Article 8 Section 15, Clearing of Vegetation.

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

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

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

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

Vegetation - all live trees, shrubs, *ground cover*, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground.

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

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

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

Watershed - an area of land that drains downslope to the lowest point. The water moves through a network of drainage pathways, both underground and on the surface. Generally, these pathways converge into streams and *rivers*, which become progressively larger as the water moves on downstream, eventually reaching an estuary and the ocean. Watersheds can be large or small. Every

stream, tributary, or *river* has an associated watershed, and small watersheds join to become larger watersheds. Watershed boundaries follow major ridgelines around channels and meet at the bottom, where water flows out of the watershed, a point commonly referred to as a stream or *river*. (Because water moves downstream, any activity that affects the water quality, quantity, or rate of movement at one location can affect locations downstream. For this reason, everyone living or working within a watershed needs to cooperate to ensure good watershed conditions).

Wetland - See *freshwater wetland*.

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

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

Woody Vegetation - live trees or woody, non-herbaceous shrubs.