

**TOWN OF FAYETTE**  
**PROPOSED LAND USE ORDINANCE AMENDMENT SUMMARY – as of 3/6/24**  
**Including proposed amendments to the**  
**Future Land Use Plan of the Comprehensive Plan to agree with Ordinance Updates**

**WHAT’S THIS ABOUT?**

As called for in the new Comprehensive Plan, the Selectboard appointed a Joint Land Use Committee composed of members from both the Comprehensive Plan Committee and Planning Board to review Fayette’s land use ordinances to align with the objectives of the Plan, ensure compliance with current best practices and State laws, and generally improve workability. The Committee began work in September and has been meeting twice a month. A proposed package of revised land use ordinances will be presented to the Selectboard by early April and scheduled for votes in June. All meetings are posted on the town website and are open to the public in person or via Zoom.

**Fayette Comprehensive Plan Vision Statement:**

*“Looking to the future, we the citizens of Fayette, Maine shall continue to protect its scenic, recreational and natural resources in keeping with the unique character of our town. We hope to preserve and improve upon the rural qualities we value while building for opportunities enabling our community to live and work across the lifespan. Our focus would lend direction for plans that are environmentally sound and growth that is sustainable, ensuring good stewardship of our history and culture.”*

The Committee interprets the vision statement as follows:

- Support unique local businesses; discourage big box stores
- Protect lakes and natural resources
- Balance neighbor availability with privacy and rural independent living theme
- Be welcoming of summer residents and campers
- Improve housing opportunities, especially for lifespan needs of residents and family members
- Protect dark skies (lighting standards)
- Preserve the wooded landscape (other than agricultural fields and wetlands)
- Consider visual impacts of developments and parking lots
- Consider traffic and noise

**Guiding Principles:**

1. Deploy reasonableness standard (rather than cite specific hard and fast numbers), using industry standards for reference and allowing the Planning Board to hire needed expertise at the applicant’s expense for sophisticated technical reviews.
2. Only enact rules that are needed and that we intend to enforce. All currently existing Fayette rules are being questioned and reviewed for necessity and appropriateness.
3. Create performance standards applicable to all land uses throughout town. There will often be stricter state-required rules in the shoreland zones.
4. Balance individual freedoms and commercial opportunities with impacts on neighbors.

**Public Input Survey and Open House**

In December and early January, the public was encouraged to share their opinions about issues the Committee was addressing. 124 responses were received and over 40 residents attended the Open House. The results have been posted on the web site since January 9. The Committee gratefully appreciates those who took the time to share their views and has incorporated this input into more refined proposals, as listed in Part I below, ready for public hearing on March 11.

## Part I. Resolution of Issues Posed in December Survey

### 1. Setbacks and Well Drilling Notification

Front Setback: Agreed to reduce to 50' in line with survey results from the former 75' requirement.

Front Outbuilding Waiver: A waiver may be requested of the permitting authority for up to 200 sf of incursion for a non-residential accessory structure into the road setback area (but not within the road right-of-way) when no practical alternative exists on the property for a structure deemed to be appropriate and necessary to typical residential and small commercial uses. The incursion into the road setback area will be minimized. Shipping containers and dumpsters may not be placed within the road setback area.

Small Roadside Dependent Structures: Bus shelters, trash bin containers, mail or package delivery boxes and small farm stands will not be required to demonstrate that no practical alternative exists but the CEO must find that no public hazard will be presented by their placement. Farmstands should have a safe place for people to get off the road. After 6 months of discontinued use, structures shall be removed.

Side/Rear Setbacks – Despite the majority favoring a waiver policy, issues would likely arise with mortgage lending inspections. Term easements were also discussed as an option **but it was decided best to avoid the waivers due to problems future owners would inherit and just offer the practical difficulty variance for odd lots.** Driveway setbacks will remain at 10' with a possibility of reducing to as little as 5' with notarized neighbor endorsement recorded at Registry of Deeds (same as current ordinance). Wells and septic systems will remain the same as state law (10 feet).

Well Drilling Notification and Setback – Survey results were inconclusive as was the committee's feeling. Some felt notification was valuable even with the town having no regulation. Others felt we should just stay out of it and let the State rules apply. The potential burden on town staff was discussed; the town manager and CEO advised that at about 6/year it would be worth it just to avoid surprises and increase the chances that all neighboring septic systems were properly identified and Dig Safe was utilized. **The decision was to try a "courtesy notification" to all abutters regardless of the size of the lot, advising abutters to contact the applicant and/or the installer (driller or excavator) to discuss any concerns.**

### 2. Lighting, Signs and Residential Screening

While the proposals to allow shielded lighted signs were largely supported, many comments pleaded that we continue to prohibit all internally lighted signs. Given there have been no requests for lighted signs, the Committee was persuaded. However, finding that digital message boards could be useful at the town office or school, **it was decided to continue the prohibition of internally lighted signs but allow digital message boards with dark backgrounds for governmental information purposes only.**

**For existing private lighting, we would grandfather existing fixtures but expect people to replace them with compliant shielded fixtures.** Our standard non-conforming language would allow existing fixtures to be replaced as long as they are not more non-conforming, so we will need to be explicit about how lighting will be treated. We prefer to approach through education. **We proposed to simply prohibit glaring illumination impacting other property or drivers, to be addressed through complaints.**

**For ROW policing of contractor signs, it was agreed to start with asking MaineDOT to pick up contractor signs when they build up and see how that works before considering having the town take this over.** A perpetual Event Sign Permit will be available to persons or organizations advertising more than 2 events/year (such as FOSH) to place signs in the ROW.

**A majority felt we should not require screening of individual residences, so that is not proposed.**

### **3. Noise**

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

### **4. Emergency Access**

While respecting the comments expressing opposing viewpoints, the proposal is to go with the majority survey results and continue to allow 1-2 family residential structures to locate on roads that lack emergency access standards. The lack of emergency access will be noted on the building permit.

### **5. Steep Slope Protection**

With 80% favoring a restriction, we are proposing a Steep Slope Overlay District covering sustained (2+ acre) areas of 20% slopes or greater. Here building siting, design and vegetative clearing would be managed to prevent erosion and minimize disturbance of public viewsheds. Timber harvesting and clearing for agricultural uses would be exempted.

### **6. Site Plan Review Process**

The proposed thresholds to trigger a review were supported and will be utilized. A majority opposed having short-term rentals constitute a change-of-use that would trigger a need for site plan review so that will be dropped.

### **7. Specific Use Performance Standards**

The public input was supportive of the proposals. Other standards will be added to generic site plan review standards. The existing Utility Grade Solar Ordinance will be repealed with its provisions moved into this section of the Land Use Ordinance. Communication towers, event venues, water extraction ventures and mobile home parks will have specific use performance standards applied. ***Drafts of the standards to be applied will be posted on the town web site prior to the public hearing and available for review at the hearing.***

Currently the town allows mobile home parks anywhere and there are no standards in place. We are required to allow mobile home parks in a number of environmentally suitable locations. We are proposing to limit them to the Village District (name change proposed for existing Rural Growth District), which would meet this criterion if expanded as proposed (the current boundaries are too limited) and apply standards allowed under state law. See specific use performance standards for details if interested.

A separate Mass Gathering Ordinance to be administered by the Selectboard (rather than Planning Board) is being prepared for a separate public hearing. The Town of Starks Mass Gathering Ordinance is serving as the model.

### **8. Short-Term Rental Requirements**

There was widespread support for the proposed licensing requirement and a majority agreed with exempting word-of-mouth rentals. A separate ordinance is being prepared for consideration with a public hearing slated for March 18. The Land Use Ordinance proposes two relevant provisions that would stand regardless of whether there is a licensing program:

- A. Accessory Dwelling Units (ADUs) may not be commercially advertised for short-term rental.
- B. Only one short-term rental unit may be offered per residential lot at a time without being approved as a lodging facility.

## Part II. Proposals Developed Since Survey and Open House

### **9. Addressing New State Housing Requirements**

- A. Allowing additional dwelling units on single lots (septic and well requirements apply)
  - a. New construction may have up to 2 units in Rural Area and up to 4 units in Village Area
  - b. Where single family dwelling already exists, may add up to 2 more dwelling units
    - i. We may by law, and do propose to, limit to two residential structures so a 3<sup>rd</sup> unit must be internal or attached to one of the other buildings
    - ii. Additional units may be principal dwelling units or accessory dwelling units (190-1000sf size limit)
    - iii. We may and propose to require that density standards must be met after the second unit so a 3<sup>rd</sup> unit in Rural Area would require a 3 acre lot and 3<sup>rd</sup> unit in Village Area would require a 1.5 acre lot
  - c. We are proposing that individual dwellings on the same lot may not be offered separately for sale unless approved as a condominium. Mobile homes are excepted.
- B. Accessory Dwelling Units (ADUs)
  - a. Allowed anywhere a single-family home is allowed
  - b. We propose no preference on whether internal, attached or external but are limiting size to 1000 sf maximum
  - c. We are proposing that only one ADU be allowed on each lot without undergoing subdivision review.
  - d. We are proposing that ADUs not be allowed to be commercially advertised for short-term rentals since the purpose is to create more permanent housing.
  - e. While allowed by state law, we are not proposing that owners need to occupy either the principal or accessory dwelling; both could be rented, and the principal dwelling could be short-term rented.
  - f. ADUs are allowed on non-conforming lots if they do not make the lot more non-conforming and can meet all other dimensional requirements.
  - g. ADUs do not count toward density calculations
- C. Affordable Housing Density Bonus in Village District
  - a. If a developer can prove they will keep the rent or sale price of all units in a development affordable for at least 30 years after completion of construction, we must allow 2.5 times (rounded down) the base density. So if we would normally allow 3 units on 1.5 acres (net density not counting non-buildable land), we would have to allow 6 units if they can meet water and sewer requirements. We have the option of offering this townwide, but are proposing to only include it in the Village District (could also be applied if decided in a future Age-Friendly District.)

### **10. Land Use District Revisions (see map)**

- A. Revised Names
  - a. Change “Shoreland District” to “Lakefront District” to distinguish it from “Shoreland Zoning” which refers to all 4 Shoreland Districts.
  - b. Change “Rural Growth District” to “Village District” and improve its description.
- B. New Districts
  - a. Steep Slope Overlay District: Sustained areas of 2+ acres in extent with 20% slopes or greater
  - b. Age-Friendly Floating District: This is a potential district designation (not on the map) that could be applied to a qualifying development anywhere in town that meets criteria for

walkability and support services appropriate for older residents. The Planning Board would make a recommendation for such a District that would have to be approved by a townwide vote. The purpose is to ensure neighborhood compatibility for such a development and position it to qualify for state investments limited to designated growth districts.

C. Expanded District

- a. We propose that the Village (currently Rural Growth) District be expanded since there is little room for growth. These areas are relatively close to services such as the store, school and library. The expansion is limited to lots accessed by public roads.

D. Resource Protection District Clarification

- a. This district only applies within the Shoreland Zone and around freshwater wetlands as defined. The current ordinance is a bit unclear.

**11. Revised Dimensional Standards**

We have evaluated our existing standards and are proposing the following changes noted in ~~strikeout~~ and underlined text. The 5:1 maximum lot depth:width ratio is in the subdivision ordinance. We propose to make it a requirement of all building lots and to waive the maximum lot coverage ratio for public facilities.

All buildings and structures shall conform to the dimensional requirements set forth in this section, which are minimum requirements, unless otherwise noted. Dug or drilled wells and septic systems must be setback at least 10' from all property boundaries. Developments undergoing subdivision or site plan review calculate land area per dwelling unit based on net land area after undevelopable land is subtracted but may be allowed reduced standards in a cluster subdivision design. The maximum lot coverage ratio may be waived for public facilities.

Table of Dimensional Requirements						
Performance Standard	Resource Protection District	Wetland Protection District	Stream Protection District	Lakefront District	Rural District	Village District
Lot Size	1 acre	2 acres	1 acre	1 acre	2 acres	1 acre
Road Frontage	150 ft	200 ft	150 ft	150 ft	200 ft	<del>200</del> <u>150</u> ft
Road Setback	<del>75</del> <u>50</u> ft	<del>75</del> <u>50</u> ft	<del>75</del> <u>50</u> ft	<del>75</del> <u>50</u> ft	<del>75</del> <u>50</u> ft	<del>75</del> <u>50</u> ft
Side Setback	15 ft	15 ft	15 ft	15 ft	25 ft	15 ft
Rear Setback	15 ft	15 ft	15 ft	15 ft	25 ft	15 ft
Maximum Building Height	See note #4	See note #4	See note #4	See note #4	35 ft	35 ft
Land Area Per Dwelling Unit	<del>1 acre</del> <u>N/A</u>	<del>2</del> <u>1</u> acres	<del>1 acre</del> <u>N/A</u>	1 acre	<del>2</del> <u>1</u> acres	<del>1½</del> <u>1</u> acre
Shore Frontage	200 ft	200 ft	200 ft	200 ft	N/A	N/A
Shore Setback	250 ft	100 ft	75 ft	100 ft	N/A	N/A
<u>Maximum Lot Depth:Width Ratio</u>	<u>5:1</u>	<u>5:1</u>	<u>5:1</u>	<u>5:1</u>	<u>5:1</u>	<u>5:1</u>
Maximum Impervious Area	20%	20%	20%	20%	35%	<del>35</del> <u>40</u> %

## 12. Driveways and Roads

We are not proposing anything major, but do want to clarify definitions, anticipate units accessed as well as lots, and permitting authorities for each. We are formalizing access permits for farm, logging roads and trails on public roads (often done informally now) and adding a provision to require responsible parties to promptly repair any damage to the public road system or provide that the town will perform the repair and bill the party. Unpaid bills may turn into liens.

- A. New logging, farm, ATV and snowmobile trails that intersect with town roads will need an access permit from the Road Commissioner or designee.
- B. *Driveways* serve up to 2 lots and 4 units, and are permitted by the CEO, consulting with Road Commissioner or designee, as needed.
- C. *Entrances* serve 6+ unit residential developments and commercial uses generating 50+ vehicle trips per day (MaineDOT definition). MaineDOT permits those on Route 17 and Chesterville Ridge Rd. Planning Board will permit when accessing town roads as part of Site Plan Review, in consultation with the Road Commissioner or designee.
- D. Culvert diameters will be sized to anticipate drainage capacity needed to handle more severe storm events than historically experienced.
- E. *Roads* are divided into 3 categories as follows, and are all permitted by the Planning Board. We are proposing to remove the 500 foot length (CEO v PB) review threshold currently in the ordinance.
- F. We suggest changing the name of the smallest roads from “Rural Road” to “Lane” and maintaining the current provision that they may not be proposed to the Town for acceptance as a public road.
- G. We will require a second access when any of the following thresholds are met:
  - a. 20 lots served
  - b. 30 dwellings served (assuming up to 2 possible per lot unless deeds prevent ADUs)
  - c. 2000’ or greater in length of existing access

Fire chief will be asked for a recommendation if the applicant or Planning Board believes the requirement is unnecessary for reasonable public safety and/or will cause environmental degradation in excess of the public safety benefit. The Planning Board will weigh the relative benefits and risks, and make a determination based upon the individual facts and circumstances.
- H. No changes are proposed to the existing driveway or road construction standards, but what is now scattered among 3 different ordinances will now all be just within the Land Use Ordinance.

Road Category	Current Service Description	Proposed Service Description
Collector	Over 30 dwelling units	Road providing through traffic or serving over 20 lots
Local	10-29 dwelling units	Road providing neighborhood circulation or providing access to 5-20 lots
<del>Rural</del> Lane (new name)	1-9 dwelling units	Road providing access to a local or collector road for 3-4 lots or up to 9 dwelling units

### **13. Shoreland Zoning Changes**

- A. Stop regulating temporary docks and piers beyond high water line (now optional).
- B. Allow rear lots if other requirements are met.
- C. Campgrounds of 2-4 sites commercially advertised for rent will be treated as lodging with appropriate conditions (sanitation, water, parking, trash). This will be applied townwide.
- D. Revised DIF&W map of Significant Waterfowl and Wading Bird Habitat impacts additional properties (see map).

## **Part III. Miscellaneous Improvements**

### **14. Practical Difficulty Variance**

We have the option of offering this type of variance for oddly-shaped lots that present problems for meeting all the setback and other dimensional requirements without meeting the very restrictive “undue hardship” criteria. We propose to introduce this option, which would require Board of Appeals approval.

### **15. Combining Related Ordinances**

We currently have separate Subdivision, Utility Grade Solar and Town Road Acceptance Ordinances. We intend to fold the essential provisions into the Land Use Ordinance to streamline administration and ease of use. If the Land Use Ordinance amendments are approved, these redundant ordinances will be repealed.

### **16. Administrative Provisions**

We intend to improve the organization of application and permitting processes in one place and remove redundant references to the Planning Board and Board of Appeals that are covered in the Administrative Ordinance.

### **17. Effective Date and Amendments Sections**

As recommended by the town attorney, we will simplify references to earlier amendments but keep a separate file of what provisions changed when for purposes of documenting “grandfathering” rights of existing lots and land uses. We will add a provision authorizing the town clerk to renumber ordinance sections following amendments to make it easier to read. If the amendments pass, we will tackle the renumbering. No substance will change.

### **18. Dated References**

We will update references to statutes and best practice manuals, inserting “or latest edition” to avoid specifically referencing dated materials.

## **Part IV. Proposed Future Land Use Plan Amendments (in Comprehensive Plan)**

We have refined some of the specific applications of the Future Land Use Plan as expressed in the 2023 Comprehensive Plan. For the zoning (district) proposals above to rest on solid legal footing, we propose amending the Future Land Use Plan to agree with the revised Land Use District proposals. The specific proposed word changes are as follows:

Add the following strategies to the **Land Use Plan Strategy Chart** (current page 117, assign all to Planning Board and CEO, mid-term):

24.4 – Consider expansion of the existing Rural Growth District to accommodate additional growth near the school and assignment of a more attractive name such as Village District.

24.5 - If the Rural Growth District is expanded sufficiently, limit mobile home parks to this District. Consider requiring access via public roads only.

24.6 - To increase opportunities for small-scale planned development in appropriate locations outside the existing Rural Growth District without pre-determining the best location, explore establishment of a floating district or contract zone to encourage the creation of age-friendly housing developments, especially serving the identified needs of older residents.

Add the following sentence to **Critical Resource Areas** (current page 119):

Removing vegetation for development on or adjacent to steep slopes of over 20% should be limited to prevent erosion and protect public viewsapes. This might be accomplished via a Steep Slope Overlay District.

Edit the **Designated Growth Areas** section (current page 119-120) as follows:

In 2009, Fayette identified two Designated Growth areas along the Route 17 corridor. The first began in on the eastern border of Fayette along Route 17 until the road bends towards the North. This area is primarily residential and includes the Fayette Central School as well as the Fayette General Store. The second Designated Growth area in the 2009 Plan covered mostly the eastern side of Route 17 between Sanderson Corners up towards Tilton Pond. Over the last decade, these designated growth areas lacked the appropriate support through regulatory measures and residential developments occurred throughout the town – most outside of these areas. In 2023, the Town decided to remove the Sanderson Corners to Tilton Pond Rural Growth District to focus efforts to encourage growth in the eastern edge of town near the school.

~~Throughout the creation of this plan, committee members and public feedback indicated that the northern growth area between Tilton Pond and Sanderson Corners should not remain a designated growth area moving forward. A significant portion of this area ran through the Shoreland District as well as through critical resources. Increased development in this area could potentially harm the surrounding ecosystems. Furthermore, significant slopes made part of the designated growth area undevelopable without major landscaping. In 2024, following a review of existing ordinances and strategies by the Joint Land Use Committee, it was determined that the eastern growth area needed to be expanded to include more developable land accessed by public roads. The area is constrained by ponds, wetlands, private roads and land held for conservation but expanding the district along public roads within a mile or so of the school will allow more opportunities for growth. Future mobile home parks will be limited to this district.~~

Add the following **Strategies to Encourage Growth in Growth Area** (current page 120):

- Allow higher density development in an expanded growth area, and only allow mobile home parks there
- Allow an affordable housing density bonus for qualifying developments as provided in state law only in the growth areas

Add the following to **Strategies to Discourage Growth Outside of Growth Area** (current page 120):

- Do not offer affordable housing density bonus outside of growth area or future age-friendly district