

2018

Town of Dayton Maine Ordinances

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TOWN OF DAYTON

ORDINANCE CONCERNING LOCATION AND REGULATION OF ADULT BUSINESSES

Sec. 1. Purpose.

The purpose of this Ordinance is to provide for the controlled location and regulation of adult businesses in order to insure that any such businesses are conducted in a way which is not detrimental to the public health, safety and general welfare.

Sec. 2. Definitions.

A. Adult business means:

- i. Any business, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials or devices of any kind which appeal to prurient interests and which depict or describe specified sexual activities.
- ii. Any business utilizing a "viewing booth" to display by audio or visual reproduction, projection or other means, any materials which depict or describe specified sexual activities.

C. Specified sexual activities means:

- i. Human genitals in the state of sexual stimulation or arousal;
- ii. Acts of human masturbation, sexual intercourse or sodomy;
- iii. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Sec. 3. Operation and Location of Adult Businesses.

A. No adult business shall be located or operated within the Town of Dayton except in the following areas as defined by the Town of Dayton Zoning Ordinance (enacted March 11, 1978):

- i. Village Zone, on a parcel with frontage on a State-Aid highway;
- ii. Residential Zone, on a parcel with frontage on a State-Aid highway;

- B. No adult business shall be located within one thousand (1,000) feet of any school, park, playground, church, library or public building.
- C. No adult business shall be operated as a home occupation as defined in the Town of Dayton Zoning Ordinance.

Sec. 4. Application and Permitting Procedures.

No adult business shall be located or commence operation within the Town of Dayton without first being approved by the Dayton Planning Board pursuant to the procedures and standards applicable to conditional uses under Article 6 of the Town of Dayton Zoning Ordinance. Planning Board review under this Ordinance shall be limited to the impacts and effects of a proposed use as determined by applying the conditional use standards. The Planning Board shall not deny approval for the proposed use on the basis of the content of the material sold, rented, exhibited or displayed, and shall not restrict or limit the content of such materials. Planning Board decisions under this Ordinance shall be appealable to the Dayton Board of Appeals pursuant to the Dayton Zoning Ordinance.

Sec. 5. Fee Structure.

The fees for the Planning Board review under this Ordinance shall be according to the fee structure for conditional use permits under the Town of Dayton Zoning Ordinance.

Sec. 6. Effective Date and Duration.

This Ordinance shall take effect as of June 12, 1993 and shall remain in effect unless amended or appealed by vote of the Town of Dayton.

Sec. 7. Applicability.

Notwithstanding any provision in any local ordinance to the contrary, this Ordinance applies to any application or requests to locate or operate an adult business previously submitted to the Town of Dayton. Any adult business lawfully operated on the effective date of this Ordinance is not subject to its terms. Where the provisions of this Ordinance conflict with specific provisions of any federal, state or local ordinance, the more stringent provision shall apply.

Sec. 8. Enforcement.

This Ordinance shall be enforced by the Code Enforcement Officer in accordance with the provisions of Section 6.5.1 of the Dayton Zoning Ordinance. When any violation of any provision of this Ordinance is found to exist, enforcement of the provisions of this Ordinance shall be according to Section 6.6 of the Dayton Zoning Ordinance.

Town of Dayton Animal Control Ordinance

1) Purpose

The purpose of this ordinance is to regulate dogs in the Town of Dayton, to mitigate the problems, including property damage, caused by dangerous dogs, dogs running at large and barking dogs, and for the protection of the health, safety, comfort, convenience, and general welfare of the residents of the Town. This ordinance seeks to achieve its purposes without unreasonably restricting owners and their dogs in their normal activities, while holding owners responsible for their dogs.

2) Authority

This ordinance is enacted pursuant to Title 30-A, M.R.S.A., Section 3001.

3) Definitions

As used in this ordinance, unless the text clearly indicates otherwise, the following words and phrases have the following meanings.

“Abandoned Animal” an animal that has been deserted by its owner or keeper.

“Dog” includes both male and female dogs.

“Owner” means any person or persons, firm, association, or corporation, or other legal entity amenable to civil process, owning, keeping, or harboring, or in possession of, or having the control of a dog; and includes the parent or parents, or guardian, of a minor who owns, keeps, harbors, or is in possession, or control of a dog.

“Keeper” means a person in possession or control of a dog.

“Running at Large” means off the premises of the dog’s owner and not under the control of an owner or keeper of the dog who is physically capable of controlling and restraining the dog by a leash, cord, or chain, or by “at heel” or other voice or other command control to which the dog is obedient.

“Voice Command” means dog control by voice or other command where the dog is obedient and responsive.

“Town” means the Town of Dayton.

4) **Barking Dogs**

Anyone owning, possessing or harboring any animal which barks, howls or makes other sounds common to its species continuously for 20 minutes or intermittently for one hour or more shall be deemed to constitute a nuisance. Exceptions: dogs barking at trespassers or threatening trespassers on private property on which the dog is situated or any legitimate cause for provocation. Upon a signed and sworn written complaint of the person disturbed, any animal control officer or other law enforcement officer may investigate the allegations of the complaint. If the officer finds that there are valid grounds for the complaint, the officer shall serve a written warning upon the Owner or Keeper, notifying them that such annoyance or disturbance must cease. Said written warning shall be served by:

- a) Delivering a copy of the warning to the Owner or Keeper, in hand;
- b) Leaving a copy with a person of suitable age and discretion at the premises where the dog is kept or where the owner or keeper resides; or
- c) Mailing a copy to the owner or keeper at the address shown on the license application for that dog or animal.

Any Owner or Keeper who allows such annoyance or disturbance to continue after notice has been served commits a violation, subject to the penalties set forth in this ordinance.

5) **Running at Large Prohibited**

A. No person shall cause or permit any dog owned or kept to run at large within the Town. And specifically, when on any public way, or municipal property, including but not limited to the Town's parks, and recreational and athletic fields, or upon the property of another person without the consent of another person. All Owners or Keepers of a dog shall ensure that their dog is:

- i) On a leash or tether at all times; or
- ii) Is accompanied by an owner or keeper who is physically or by effective voice or other command able to control and restrain the dog from attacking, who at all times tends the leash or tether or otherwise maintains effective control of their dog, and who does not permit the dog to run at large. Nothing in this ordinance shall be held to require the Owner or Keeper of a dog to leash their dog while on their private premises.

B. The Owner or Keeper of any dog found running at large in violation of Paragraph A of this section of this ordinance shall be entitled to warnings on the first two alleged violations. On the third and any subsequent alleged violations, the Owner or Keeper of any such dog shall be cited to appear in Court to answer the charge of violating this Ordinance, or another appropriate charge.

6) Impounding Dogs

Unlicensed dogs, or dogs found roaming at large, shall be taken up and impounded in a shelter designated by the Town, and there confined in a humane manner for a period of not more than ten days. Any dog impounded under the provisions of this article and not reclaimed by its owner within ten days may be humanely destroyed or placed in the custody of another person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this article. The Town, or its duly authorized agent, may transfer title of all animals held by it at an animal shelter after the legal detention period has expired and the animal has not been claimed by its owner. The owner or keeper shall be responsible for all fees associated with the impoundment.

When dogs are found running at large and their ownership is known, such dogs need not be impounded, but the Town through its duly authorized agents may, at its discretion, cite the Owner or Keeper of such dogs to appear in court to answer for their alleged violations of this ordinance.

7) Tags

No dog shall be kept within the limits of the Town of Dayton unless such dog is licensed by its owner in accordance with Maine Law. The Town Clerk shall provide with each new license issued for a dog a tag indicating the year the license is issued and such other information as may be required under 7 M.R.S.A. §3922-B. The owner shall make sure that the tag is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog for which the license was issued except when hunting, in training or in an exhibition. When the dog is hunting, in training or in an exhibition, its owner shall produce proof of licensure within twenty-four hours upon request by the Animal Control Officer.

If a tag is lost, the owner shall obtain a new license and tag. The Town Clerk shall issue another license tag upon presentation of the original license and payment of one dollar.

8) Late Fees

An owner or keeper required to license a dog under section 3922 subsection 1 or section 3923-C, subsection 1 and applying for a license for that dog after January 31st shall pay to the municipal clerk or dog recorder a late fee, in addition to the annual license fee paid in accordance with subsection 1 or 2 and section 3923-C, subsection 1. The clerk or dog recorder shall deposit all late fees collected under this subsection into the municipality's animal welfare account established in accordance with section 3945.

9) Rabies Tags

Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to a collar of leather, metal or material of comparable strength that must be worn by the dog for which the tag was issued except when the dog is hunting, in training or in an exhibition or on the premises of the owner. When the dog is hunting, in training or in an exhibition, its owner shall produce proof of licensure and proof of rabies immunization within twenty-four hours upon request for the Animal Control Officer.

10) Penalty and Enforcement

Any person who violates, disobeys, refuses to comply with, or resists the enforcement of any provision of this ordinance shall upon conviction, be fined not less than Twenty Five Dollars (\$25.00), nor more than One Hundred Dollars (\$100.00) for each offense. Each violation shall be deemed a separate offense. In addition, pursuant to the Maine Revised Statutes, Title 30-A, Part 2, Subpart 6-A, Chapter 187, Subchapter 5 (30-A M.R.S.A. § 4452), the Town may recover all costs of enforcement of this ordinance, including reasonable attorneys fees.

This ordinance shall be enforced by the Town's Animal Control Officer(s) appointed by the Town, or by any other duly appointed agents of the Town.

In addition to any other penalty provided by law, the commission of acts prohibited by this Ordinance shall constitute a nuisance and may be abated by the Town seeking an injunction to prohibit further and continued violation thereof.

11) Separability

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

Specifically, this ordinance is in addition to, but does not in any way replace the responsibilities of Owners or Keepers pursuant to, the *Maine Animal Control Act*, Maine Revised Statutes Title 7, Part 9 (7 M.R.S.A. § 3901, *et seq.*), or other Maine law.

12) Miscellaneous Provisions

A) This ordinance, as amended, is adopted pursuant to the Maine Revised Statutes, Title 30- A, Part 2, Subpart 4, Chapter 141 (30-A M.R.S.A. § 3001, *et seq.*), and Title 7, Part 9, Chapter 725, § 3950 (7 M.R.S.A. § 3950).

B) This ordinance shall become effective upon the date of adoption.

STATE LAWS

1) 7 § 3921. License necessary

- a) A dog may not be kept within the limits of the State, unless the dog has been licensed by its owner or keeper in accordance with the laws of this State.
- b) Each owner or keeper of a dog at the age of 6 months or more shall obtain a license.
- c) Proof of immunization against rabies must be provided at the time of licensing.

2) 7 § 3923-B. Tags

- a) License and Rabies tags must be attached to a collar and worn at all times, except when hunting or on the owner's property.

3) 7 § 3924. Violation

- a) Civil violation. Any person who violates any section of this chapter commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

4) 7 § 4011. Cruelty to animals

- a) Improper food, insufficient shelter, lack of medical attention, improper tethering, can result in cruelty charges. Leaving an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health can result in charges.

5) 7 § 4016. Violation

- a) A minimum fine of not less than \$500 and up to \$2,500 for the first violation, none of which may be suspended, and a fine of not less than \$1,000 or more than \$5,000 for a 2nd or subsequent violation, none of which may be suspended.

TOWN OF DAYTON
CABLE TV FRANCHISING ORDINANCE

Be it ordained by the Town of Dayton, acting by and through its Board of Selectmen, acting as its municipal officers, that the following Cable TV franchising ordinance be adopted.

Section 1. Short Title.

This ordinance shall be known and may be cited as the “Town of Dayton Cable TV Franchising Ordinance.”

Section 2. The Cable TV System Franchise.

A. Franchise required: No person, firm, company, corporation or association shall construct, install, maintain or operate within any public street in the Town, or within any other public property of the Town, or within any privately owned area within the corporate limits of the Town, any equipment or facilities for the distribution of television signals, or radio signals or other intelligences either analog or digital over a broadband telecommunications network to any subscriber unless a franchise authorizing the use of the streets or properties or areas has first been obtained pursuant to the provisions of this ordinance, and unless such franchise agreement is in full force and effect.

B. Review of qualifications: Specific permission to operate a Cable TV system under the provisions of this ordinance may be granted by the Board of Selectmen to any applicant (the “grantee”) after satisfactory review of its legal, character, financial and technical qualifications and the adequacy and feasibility of the grantee’s construction arrangements, all demonstrated by the grantee to be adequate to protect the general public health, safety and welfare, and has approved the grantee’s qualifications as a part of a public proceeding affording due process.

C. Duration of franchise: Upon filing by the grantee of a proper acceptance, and such other bond and insurance as the Board of Selectmen may reasonably require, the franchise shall take effect as provided herein and shall continue in full force and effect for a maximum term of [fifteen (15)] years.

Section 3. Applications for a Franchise or Renewal.

Applications for a franchise or renewal shall be filed with the Town Clerk for referral to the Board of Selectmen for action. Any such application for a franchise or a franchise renewal shall contain the following information:

1. Filing fee of [\$_____].
2. Name and address of the applicant.
3. Description of proposed operation including, but not limited to, hours of operations, operating staff, maintenance procedures, and its proposed rules of operation for public access.
4. Subject to any applicable federal law, a statement of all television and radio services to be provided.
5. A statement setting forth a description of any special services to be made available to the public, including municipal and education channels.
6. A statement detailing the corporation organization of the applicant, identifying the number of stockholders of the company, any intra-company relationships with parent or subsidiary companies and a statement setting forth in writing any and all understandings between the applicant and any other person, firm or organization.
7. A statement detailing the applicant's financial statement for the two previous fiscal years.
8. A written statement detailing the type of network proposed by the applicant including, but not limited to, network configuration, network capacity, two-way capability and proposed dates of commencement of construction and operation of said network.
9. A written statement as to whether the applicant or any of its officers, directors or holders of 10% or more of its voting stock have in the past ten (10) years been convicted of any crime other than a routine traffic offense and the disposition of each such case.

Section 4. Procedural Requirements.

Before the Town solicits Cable TV franchise proposals or entertains applications for renewals, the following procedures shall be required:

- A. The Board of Selectmen shall provide public notice and hold a public hearing to determine special local needs or interests in Cable TV programming and services and shall provide for a period of public comment on the same;

B. Any and all franchise applications and renewal applications, and related documents, shall be public records and the Board of Selectmen shall provide reasonable notice to the public that such records are available and open to inspection at the Town offices during normal business hours;

C. Prior to granting any franchise or franchise renewal, the Board of Selectmen shall provide for a public hearing on the same; and

D. The Board of Selectmen shall assess such fees as are reasonably necessary to defray the costs of public notice, advertising and other expenses incurred by the Town in acting upon franchise applications.

Section 5. Financial Reports.

The holder of any Cable TV franchise shall file annually with the Town not later than three (3) months after the end of its fiscal year two copies of its report to stockholders and an income statement identifying expenses and income applicable to its operations and the franchise fee required by its franchise agreement.

Section 6. Performance Bond.

The cable operator shall maintain during the term of the franchise agreement a faithful performance bond running in favor of the Town with a corporate surety licensed to do business in the State of Maine conditioned upon the faithful performance of the cable company and providing for recovery jointly and severally from the principal and surety of the bond any damages suffered by the Town as a result of any cost incurred by the Town for the removal or abandonment of any property of the cable TV company plus a reasonable allowance for attorney's fees and costs in prosecuting the same. The amount of the bond shall not be less than twenty-five thousand dollars (\$25,000), and written evidence of the same shall be filed with the Town.

Section 7. Compliance with Law.

The cable operator shall at all times comply with all applicable federal, State and local laws, ordinances and regulations.

Section 8. Separability.

If any section, clause or phrase of this ordinance is for any reason held invalid by any court of competent jurisdiction or by any federal or State regulatory agency, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION ____ CONTRACT ZONING

____. PURPOSE

Occasionally, competing and incompatible land uses conflict; and traditional zoning methods and procedures such as variances, conditional use permits, and alterations to the zone boundaries are inadequate to promote desirable growth. In these special situations, more flexible and adaptable zoning methods are needed to permit differing land uses in both developed and undeveloped areas, and at the same time recognize the effects of change. In consideration of a change in zoning classification for a particular property or group of properties, it may be determined that public necessity, convenience, or the general welfare require that certain conditions, limitations or restrictions be made or imposed on the use or development of the property for which a change in zoning classification is otherwise appropriate. Such conditions are deemed necessary to protect the best interests of the property owner, the surrounding property owners and the neighborhood, all other property owners and citizens of the Town of Dayton, and to secure appropriate development consistent with the Town's growth management program and comprehensive plan.

____. AUTHORIZATION.

Pursuant to 30-A M.R.S.A. § 4352 (8), the Town of Dayton hereby authorizes contract zoning for the conditional zoning of property, where for reasons such as the unusual nature or the unique location of the property, the Town finds it is necessary or appropriate to impose, by agreement with the property owner, certain conditions or restrictions in order to ensure that the conditional zoning is consistent with the Town's growth management program and comprehensive plan. Contract zoning shall be limited to property for which a rezoning is requested by the owner or other person with sufficient right, title and interest. Nothing in this section shall be interpreted to permit an amendment that is not consistent with the Town's growth management program or comprehensive plan. Areas conditionally zoned under this provision shall be consistent with, but not limited to, the existing and permitted (whether permitted or conditional) uses within the original zone of the affected property or properties. By "contract zoning" this section means both contract and conditional zoning as enabled in 30-A M.R.S.A. § 4352 (8).

____. APPLICATION CONTENTS.

A request for contract rezoning shall include a written petition to the Planning Board requesting a rezoning, including the following.

- A. Evidence of right, title or interest in the affected property;
- B. A plot plan showing the boundaries of the parcel and its dimensions, as well as the existing and proposed buildings and structures;

- C. A plan showing the location of existing streets and driveways within two hundred (200) feet of the affected property;
- D. A detailed statement of the proposed use of the property and the precise zoning change requested;
- E. A statement explaining how the rezoning is consistent with the Town's growth management program and comprehensive plan, as well as a listing of the permitted and existing uses within the original zone.
- F. A description of the property's unusual nature or unique location;
- G. A statement setting forth the conditions or restrictions that the applicant proposes. The Planning Board may propose additional conditions or restrictions.

_____ HEARING AND NOTICE

- A. The Planning Board shall conduct a public hearing before forwarding its recommendation to the Selectmen under this provision.
- B. Notice of the hearing shall be posted in Town Hall at least fourteen (14) days before the public hearing.
- C. Notice shall also be published twice in a newspaper of general circulation, the date of first publication to be at least seven (7) days before the hearing.
- D. Public hearing notices shall be mailed to the owner of the property to be rezoned and all abutters to that property at their last known address. If the property is within its source water protection area, notice must also be sent to a public drinking water supplier. Such notice shall be sent out at least seven (7) days prior to the public hearing, and must contain a copy of the proposed conditions and restrictions with a map indicating the property to be rezoned.
- E. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate any action by the Planning Board or Selectmen.
- F. The cost of publishing and mailing the notices shall be borne by the applicant(s).

_____ CONDITIONS AND RESTRICTIONS.

Conditions and restrictions imposed under this section shall relate only to the physical development and operation of the property and may include, by way of example:

- A. limitations on the number and types of uses permitted;

- B. conditions on the scale and density of development, including the height, lot coverage and other space and bulk provisions;
- C. specifications for the design and layout of buildings and other improvements;
- D. schedules for commencement and completion of construction;
- E. performance guarantees securing completion and maintenance of improvements, and guarantees against defects;
- F. preservation of open space and buffers, and protection of natural areas and historic sites;
- G. provision of municipal services required by the development;
- H. provisions for enforcement and remedies for breach of any condition or restriction, including the timing of the effective date of the change and its repeal should conditions not be met;
- I. the dedication of conveyance of property for public purposes, including but not limited to, streets, easements, parks and utility systems.

_____ RECOMMENDATION

Before forwarding a recommendation for a contract zoning amendment to the Selectmen, the Planning Board shall make a finding on each of the four standards in this subsection. A favorable recommendation to the Selectmen requires a positive finding on all four standards. If the Planning Board makes a negative finding on any of the standards, its recommendation shall be a negative recommendation. The Planning Board shall base its recommendation on whether the rezoning:

- A. is for land with an unusual nature or location;
- B. is consistent with the Town's growth management program and comprehensive plan;
- C. is consistent with, but not limited to, the existing uses and permitted uses within the original zone; and
- D. the conditions proposed are sufficient to meet the intent of this section.

_____ FINAL ACTION

Notwithstanding the provisions of Section 1.5(C) of the Zoning Ordinance, the Selectmen shall be authorized to approve a contract zone amendment to the Ordinance, but only after the Selectmen shall have adopted the findings Planning Board recommending such amendment or making other findings indicating that the rezoning is consistent with all four standards set forth above.

_____ STATUS OF AMENDMENTS

Amendments to the zoning map and ordinance made under this section may be amended or repealed by the Selectmen or by majority vote of the Town Meeting.

_____ OTHER PERMITS

A contract zoning amendment shall be in addition to, and not in lieu of, other permits that may be required for a particular project or use. An applicant may seek other permits at the same time as he, she, or it is seeking the contract zoning as if the contract zoning were already in effect, or may seek such other permits after the Selectmen have approved the zoning amendment. If the applicant seeks approval before final action by the Selectmen on the amendment, the Planning Board shall make its approval of these other permits contingent on the Selectmen's approval of the contract zoning amendment.

Note: For ease in record keeping, contract zoning actions by the Selectmen will be recorded in the Tax Office and the Building Inspector's Office with the Map and Lot number of the property, street address, the owner's name at that time, and the date of the Selectmen's action. Such amendment may also be recorded in the York County Registry of Deeds.

TOWN OF DAYTON
FLOODPLAIN MANAGEMENT ORDINANCE

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60.3 (d) Rev. 4/09

ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Dayton, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Dayton, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Dayton, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Dayton has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Dayton having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Dayton, Maine.

The areas of special flood hazard, Zones A, and A1-30, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Dayton, Maine, York County," dated December 1, 1980 with accompanying "Flood Insurance Rate Map" dated June 1, 1981 and "Flood Boundary and Floodway Map" dated June 1, 1981, which are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Dayton, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2 apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), **North American Vertical Datum (NAVD)** or to a locally established datum in Zone A only, of the:

1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zone A1-30, from data contained in the "Flood Insurance Study - Town of Dayton, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and VIII.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
1. a Floodproofing Certificate (FEMA Form 81-65, 03/12, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 3. a certified statement that bridges will meet the standards of Article VI.M.;

4. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$50.00 shall be paid to the Town Clerk or Code Enforcement Officer and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 1. the base flood and floodway data contained in the "Flood Insurance Study - Town of Dayton, Maine," as described in Article I;
 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,
 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
 - 1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 - 2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
 - 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

- A. **All Development** - All development shall:
 - 1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - 2. use construction materials that are resistant to flood damage;
 - 3. use construction methods and practices that will minimize flood damage; and,

4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
1. Zone A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
1. Zone A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D., or

- a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

H. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zone A1-30 shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.; and
- b. meet the anchoring requirements of Article VI.H.1.c.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A, and A1-30 shall either:

- a. be on the site for fewer than 180 consecutive days,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

J. Accessory Structures - Accessory Structures, as defined in Article XIII, located within Zones A1-30, and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all

other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;
5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. Floodways -

1. In Zone A1-30 riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Boundary and Floodway Map," unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A1-30, and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
3. In Zones A1-30, and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

- L. Enclosed Areas Below the Lowest Floor -** New construction or substantial improvement of any structure in Zones A1-30, and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIII;
 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 3. The enclosed area shall not be used for human habitation; and,
 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. **Bridges** - New construction or substantial improvement of any bridge in Zones A1-30, and A shall be designed such that:
1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
 2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- N. **Containment Walls** - New construction or substantial improvement of any containment wall located within:
1. Zones A1-30, and A shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
- O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A1-30, and A, in and over water and seaward of the mean high tide if the following requirements are met:
 - 1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
 - 2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

ARTICLE VII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 - 1. review the Elevation Certificate and the applicant's written notification; and,
 - 2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.

- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of Dayton may, upon written application of an aggrieved party, 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 Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,
 - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 - 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article IX and Article VI.K. are met; and,
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 2. such construction below the base flood level increases risks to life and property; and,
 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE X - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIII - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - means a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Special Flood Hazard - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood - means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - means any area of the building having its floor subgrade (below ground level) on all sides.

Building - see **Structure**.

Certificate of Compliance - A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Development - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

Elevated Building - means a non-basement building

- a. built, in the case of a building in Zones A1-30, or A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and

- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1-30, or A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L..

Elevation Certificate - An official form (FEMA Form 81-31, 03/12 as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

Flood or Flooding - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters.
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Flood-prone Area - means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this ordinance.

Manufactured Home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the

required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

New Construction - means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD)- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - means a vehicle which is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Boundary and Floodway Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XIV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

An Ordinance to Outline the Requirements, Regulations and Standards for all Marijuana Uses Within the Town of Dayton

The Town of Dayton hereby ordains and enacts “An Ordinance to Outline the Requirements, Regulations and Standards for all Marijuana Uses Within the Town of Dayton”

DAYTON MARIJUANA ORDINANCE

- | | |
|----------------------------|---------------------------------------|
| 1- 1. Title. | 1- 9. Decision; Standards for Denial. |
| 1- 2. Findings; Purpose. | 1- 10. Appeals. |
| 1- 3. Licenses Required. | 1- 11. Notices of hearing. |
| 1- 4. Permitted locations. | 1- 12. Reserved. |
| 1- 5. Violations. | 1- 13. Renewal. |
| 1- 6. Applications. | 1- 14. Retroactivity. |
| 1- 7. Fees. | 1- 15. Enforcement; Penalties. |
| 1- 8. Investigation. | 1- 16. Severability. |

1-1

This chapter shall be known as the "Dayton Marijuana Ordinance ".

1- 2. Findings; Purpose.

The purpose of this Ordinance is to outline the requirements, regulations and standards all marijuana uses must follow in the Town of Dayton to protect existing residents, businesses, town character and safety. Businesses and residents in the Town of Dayton desire personal recreational use and Medical Marijuana use to be able to operate in Town. Retail Marijuana uses are not desired and intended to be prohibited within the Town.

1- 3. License Required.

- A. All persons and parties who grow, cultivate, harvest, manage, process marijuana, or any marijuana product, or material or medication derived therefrom (marijuana products"), for personal use on one's own property within the Town of Dayton, are not required to register with the Town or secure and maintain a license.
- B. All businesses, commercial enterprises, as well as any not for profit entities, and Medical Marijuana Caregivers that grows, cultivates, harvests, manages, processes, transfers, exchanges or distributes marijuana, or any marijuana products, from or within the Town of Dayton must register with the Town of Dayton and must secure and maintain site plan approval and a valid license at all times.
- C. To register means to complete and submit to the Town Clerk of Dayton the forms created by that office, and to pay the fees set forth herein. No registration shall be approved, and no license granted, until the required fees have been paid, and all applicable reviews, approvals and inspections have been completed.
- D. Once all applicable reviews have been fully and properly completed, and the applicant has been found qualified, the Clerk shall thereupon issue a license to the applicant.

- E. All licenses shall run for one year (365 Days), and may be renewed as set forth herein. No license shall be issued, denied, or revoked by the Town Clerk except as expressly provided in this Ordinance.
- F. In the absence of the Town Clerk, the Town Code Enforcement Officer will assume all authority and responsibility of the Clerk as designated herein.

135- 4. Permitted locations.

- A. A resident of a dwelling may grow, cultivate and harvest marijuana for personal use, and for the personal use of a resident family member, regardless of the Zone in which the dwelling is located.
- B. The limit as to the number of permitted marijuana plants and ounces of harvested marijuana for each person in a dwelling shall be set by State Law.
- C. In no event may any person owning or residing in a dwelling increase their home electrical service beyond 200 amps.
- D. In no event may a person renting, owning or occupying a dwelling grow, cultivate, distribute, harvest, manage, process, transfer, exchange, or distribute any amount of marijuana or marijuana products for a third party, except for a resident family member living in the same dwelling as permitted in Subsection A above.
- E. All businesses, commercial enterprises, as well as any not for profit entities, and Medical Marijuana Caregivers who grow, cultivate, harvest, manage, process, transfer, exchange or distribute marijuana or marijuana products for any legally permitted third party use may do so provided they operate from a structure or property located within the Town of Dayton's Commercial Industrial zone which has been granted site plan approval for such purpose, or within the Town of Dayton's Mixed Use zone as a Medical Marijuana Caregiver. No growing, cultivation, harvesting, managing, processing, transferring, exchanging or distribution of marijuana or marijuana products shall be allowed outside the boundaries of this zone, except as permitted in Subsection A above. Such activity shall be a violation of this Ordinance.
- F. No other properties outside of the Commercial Industrial zone (or the Mixed Use zone, for Medical Marijuana Caregivers only) may be used or licensed for growing, cultivation, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products for any party's personal use except for personal use as permitted in subsection A above.
- G. No license issued by the Town may be transferred, sold or assigned by the license holder to any other person or entity.
- H. No exterior evidence of any cultivation shall be visible from a public way, abutting property, or public area. Marijuana plants shall be entirely screened from common visual observation from a public way, abutting property, or public area by natural objects, plantings, or a solid fence at least six (6) feet or taller in height, density, and depth sufficient to accomplish complete screening of plants from ordinary view. Should the plants grow higher than the screening such that they are visible from a public way, abutting property or public area, either the plants shall be cut to not extend higher than the screening or the individual who is cultivating the marijuana shall install additional screening sufficient to conceal the plants from view within ten (10) days of notification of the violation by the Town's Code Enforcement Officer.

1- 5. Violations.

- A. No businesses, commercial enterprises, as well as any not for profit entities, and Medical Marijuana Caregivers shall grow, cultivate, harvest, manage, process, transfer, exchange or distribute marijuana or marijuana products without having registered with the Clerk and without having obtained a valid, in force and effect, license as required herein.
- B. Every license holder shall exhibit their license in a conspicuous place on the premises, visible to the public. Failure to display the issued license at all times is a violation of this Ordinance. Upon discovering that a person, party or entity has not displayed its license, the Town shall deliver a written warning. Failure to display a license after written warning shall constitute a violation of this Ordinance.
- C. No person, party or entity may sell, transfer or assign their license. Any attempt to sell, transfer or assign will confer no rights, and will render the license immediately void. The sale, assignment or transfer of a license is a violation of this Ordinance.
- D. It is a violation of this Ordinance to grow, cultivate, harvest, manage, process, transfer, exchange or distribute marijuana, or any marijuana product, in any structure or zone not otherwise allowed as set out in Section 1- 4 (A), (E) and (F).
- E. It is a violation of this Ordinance for any third party, including but not limited to contractors, plumbers, carpenters, electricians or, tradesmen to assist, aid, abet, promote or otherwise suffer any person, applicant or license holder to violate any provision of this Ordinance. It shall be a violation for any person, party or entity to provide assistance, advice, skills, work effort or cooperate, with the installation of facilities, equipment or materials, or otherwise provide service, education or support, that aids or advances the unlicensed growing, cultivation, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products.
- F. It is a violation of this Ordinance for any license holder to traffic, transport, mail, distribute, transfer, or otherwise assist in the trafficking, transporting, mailing, distribution or transfer of marijuana or marijuana products outside the boundaries of this State. It is a violation of this Ordinance for any agent, employee or officer of the license holder to do the same.

1- 6. Applications.

- A. All businesses, commercial enterprises, as well as any not for profit entities, and Medical Marijuana Caregivers registrations to grow, cultivate, harvest, manage, process, transfer, exchange or distribute marijuana or marijuana products for any third parties shall be made in writing on forms provided by the Clerk. Each registration shall state the applicant's name, address, telephone number and email. In addition, applicant shall:
 - 1. Identify its estimated yearly production of marijuana;
 - 2. Certify the applicant will not ship or distribute any marijuana outside of the State of Maine;
 - 3. Identify all individuals and entities with whom it will contract for delivery of marijuana and include the amounts expected to be delivered monthly and annually.
 - 4. If a caregiver, provide a copy of all applicable State licenses.
- B. All registrations submitted by an entity applicant shall contain the information set out above in Subsection A or B (as applicable) and shall also include the following:
 - 1. Federal Tax ID #
 - 2. Type and State of Organization

3. Names, addresses and date of birth of all principal officers, owners and managers
 4. Whether the entity is a for profit or non-profit entity, and confirmation thereof
 5. Proof of Insurance upon the proposed premises in the name of the license holder
 6. Name and address of Clerk or Registered Agent for Service of Process
- C. No employee, officer, or appointed or elected official of the Town of Dayton shall have any beneficial interest in an issued license, or license holder.
- D. Copies of all registrations and materials shall, upon completion, be transmitted to the Code Enforcement Officer and the Town Fire and Police Departments for the following purposes:
1. Review compliance: that the applicant license holder is permitted to operate in each and every location (map and lot number) where specified; and
 2. To record such information into the filing system of the Code Enforcement Office for use and review; and
 3. To perform a Criminal Background Check including " NCIC" Review; and
 4. Site inspection by Code Officer and Fire Department at any and all applicable location(s) used for growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing of marijuana or marijuana products; and
 5. To allow inspection of plan drawings detailing nature of site, location of utilities and how utilities such as electrical power will be used; and such other factors deemed necessary or advisable by Town staff; and
 6. For a follow-up inspection between 30- 60 days after issuance of license to inspect any facilities related to marijuana growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing of marijuana or marijuana products.
 7. To determine if the applicant needs or has a duly issued State license for the state use/ undertaking, and to determine that applicant is in compliance with all State of Maine requirements.
- E. The Town of Dayton will treat all licenses and registration materials collected, under all circumstances, as public records under Maine law.

1- 7. Fees.

- A. The fee for an initial application/registration for Medical Marijuana Caregivers where cultivation, growing, handling, storage, cultivation, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products is \$ 500.00 due to the time and effort involved in life -safety review by the Code Office and Fire and Police Departments. The fee to renew a Caregiver license for applicant/ license holders is \$ 250.00. This fee is non-refundable under all circumstances.
- B. The fee for an initial application/registration for Caregiver Growing Facilities or Registered Dispensaries, including Grow-Only and Nongrowing, where cultivation, growing, handling, storage, cultivation, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products shall be on a larger scale and for third parties, the initial registration fee is \$ 1,000.00 due to the significant time and effort involved in life -safety review by the Code Office and Fire and Police Departments. The fee to renew such a license for applicant/ license holders is \$ 500.00. This fee is non-refundable under all circumstances.

1- 8. Investigations.

- A. Registration. The Clerk shall accept and maintain an applicant's registration forms and all supporting material. The Clerk shall submit all registration materials to Town staff for review as set out in Section 1-6(F). All findings and conclusions of Town staff shall be reported to the Clerk within 30 days.
- B. Licenses. Upon receipt of an application for renewal of license, the Clerk shall inquire of Town Officials, whether a license may be renewed in compliance with the provisions of this Ordinance. Town staff shall have 30 days to complete their investigation.
- C. Only upon satisfaction of the Clerk, and after review by all appropriate departments, and only upon full compliance with all conditions set forth in this Ordinance, shall the Clerk issue a license.
- D. The Clerk shall complete his or her review promptly and grant or deny a license or license renewal subject to the additional terms found in Section 1- 13.

1- 9. Decision; Standards for Denial.

- A. Notice. The Clerk shall issue all decisions in writing, and subject to the same time period set out in Section 1- 13.B.
- B. Grounds. A license, and the renewal of a license may be denied, or revoked, upon one or more of the following grounds:
 - 1. Failure to fully complete the application forms; knowingly making a false or incorrect statement of a material nature on such form; failure to supply any requested information reasonably necessary to determine whether such license may be issued; or failure to pay any fee required hereunder;
 - 2. The person or party, applicant, or license holder has caused a significant breach of the peace; has been convicted of more than one misdemeanor, or has been convicted of any felony;
 - 3. There is a clear danger to the public if the license is issued, including significant risk of injury or fire;
 - 4. The parties or persons patronizing the license holder will adversely affect the peace and quiet of the neighborhood, whether or not residential;
 - 5. The person, party or entity has violated a provision of this Ordinance or other ordinance of the Town of Dayton, including its Zoning Ordinance;
 - 6. The occurrence of any event subsequent to issuance of the license, which event would have been a basis for denial of the license, shall be grounds for revocation thereof;
 - 7. Real or personal property taxes or legal judgments that are due and owing to the Town and are determined to be in arrears as of the date of the license request or license renewal;
 - 8. The licensee has received more than one public complaint filed with the Clerk, or;
 - 9. Such other acts or conduct found to be detrimental to the citizens or community, including but not limited to suffering a fire or significant injury arising from growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing of marijuana or marijuana products after the issuance of a license;
 - 10. A principal, officer or manager of the license holder is convicted of, or found to have a criminal conviction of any kind, or is known to associate with others convicted of criminal offenses.
- C. Hearings.

1. Except as expressly provided in this chapter, no license may be revoked without prior notice to the person, party or entity, and only after a hearing.
 2. In the case of the revocation of a license, a hearing shall be given to the individual or entity and a generalized statement of the nature of the complaint constituting the basis for the proposed action shall be included in the notice of hearing. Failure of the person, party or entity to appear at the hearing shall be deemed a waiver of the rights to said hearing.
 3. All revocations shall be upon substantial evidence and all hearings shall be conducted with substantial fairness. Rules of evidence shall not apply in such hearing.
- D. Fairness. The Clerk shall not arbitrarily deny any registration or license renewal but must base any decision upon substantial and credible evidence of one or more of the Grounds described above.
- E. Complaints. Any citizen or public official of the Town can file and/ or initiate a complaint against a license holder. Complaints will be kept and maintained by the Town Clerk and may be considered when and if a licensee seeks a renewal of their license in any succeeding year.

1- 10. Appeals.

- A. Procedure. An appeal of the Clerk' s decision to the Town Zoning Board of Appeals may be taken by any person aggrieved by the denial, or revocation of a license by filing a notice of appeal within thirty (30) days of the decision with the Town Clerk. Every appeal shall be in writing and shall state the basis for the appeal. The Town Zoning Board of Appeals shall hear the appeal within thirty (30) days after the filing of the appeal and may affirm, reverse or modify the decision appealed from.
- B. Scope of review. On appeal, the Town Zoning Board of Appeals shall review the decision of the Clerk and determine whether the decision was based upon substantial evidence and in compliance with the standards of the ordinance. The Town Zoning Board of Appeals may take additional evidence with respect to such decision or action and, if additional testimony or evidence is taken, it shall determine the appeal upon all of the evidence.
- C. Status or operations pending municipal appeal. During the pendency of an appeal to the Town Zoning Board of Appeals, the person, business or entity aggrieved by the decision of the Town Clerk may operate without risk of fine if they have an existing license and the Clerk has revoked or denied a renewal of the license. However, if the person, business or entity has been denied its initial license then any operation prior to a decision by the Town Zoning Board of Appeals will be subject to the civil penalties set forth herein.
- D. Appeal to the Superior Court. Any person aggrieved by the decision of the Town Zoning Board of Appeals may appeal to the Superior Court in accordance with the provisions of Maine Rule of Civil Procedure 80B.

1- 11. Notices of hearing.

- A. Content. Whenever a hearing is required, the Clerk shall give written notice of the time and place of the hearing, to the license holder, and the Town Zoning Board of Appeals. Notice shall also be posted in two prominent public locations.

- B. Service. Except as expressly provided, whenever notice by mail is required, such notice shall be mailed by regular United States mail at least five days in advance of the hearing date.

1- 12. Reserved

1- 13. Renewal.

- A. Each year, a license holder must submit a renewal application on the forms provided by the Clerk. The required fee set out in Section 1- 7 must be provided or the Clerk will stay review.
- B. The Clerk shall submit to Town staff the current license and registration materials in the Applicant' s file, as well as copies of any complaints and letters received by the Clerk regarding the renewal applicant.
- C. Town staff shall conduct those reviews set out in Section 1- 6(F), Section 1- 8 and Section 1-9 except Town staff may use their discretion to reduce the scope and depth of investigation if circumstances of the renewal warrant.
- D. The Clerk shall issue their decision within 30 days unless Town staff are unable, in good faith, to finalize their investigation and review, but in no event shall the license renewal decision take more than 60 days.
- E. License holders who do not submit their renewal applications at least 30 days before expiration of their license, are at risk if the event the Clerk is unable to complete their review within 30 days and in such case, if the license expires during such review without a renewal having been yet granted, the license holder must cease growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing of marijuana or marijuana products.

1- 14. Retroactivity.

The Town Board of Selectmen, due to the importance of life safety to all, and because a number of individuals are surreptitiously growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products within its boundaries, expressly intends that this Ordinance be applied retroactively to January 1, 2018. Any party who commenced growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products after January 1, 2018 but prior to the date of the enactment of this Ordinance must register for a license but fees for their first license will be waived if the party can substantially establish that they were engaged in growing, cultivating, harvesting, managing, processing, transferring, exchanging or distributing marijuana or marijuana products prior to enactment of this ordinance.

1- 15. Enforcement and Penalties.

- A. Lack of License. Any person or entity that grows, cultivates, harvests, manages, processes, transfers, exchanges or distributes marijuana or marijuana products without a valid license shall be subject to the following fines:

\$2,500	First Violation
\$5,000	Second violation
\$10,000	Each subsequent violation

- B. The failure to publically display a license shall be \$500.00 per offense.
- C. The fine for selling, transferring or assigning a license in violation of Section 1- 5(C) shall be \$5,000.00.
- D. The fine for violating Section 1- 5(D) shall be \$2,500.00 for the first offense and \$5,000.00 for each occurrence thereafter.
- E. The fine for parties violating Section 1-5(E) shall be \$5,000.00 per offense.
- F. Violation of Section 1- 5(F) (Transporting or Trafficking) shall result in permanent loss of license.

1- 16. Severability.

If any portion of this Ordinance is held to be invalid, the remainder of the Ordinance shall remain in full force and effect, it being the Town Board of Selectmen's intention that these provisions be severable to the greatest extent allowed by law.

**An Ordinance to Amend the Zoning Ordinance of the Town of Dayton
to Prohibit Retail Marijuana Uses and to Permit Medical Marijuana Uses
Within the Town of Dayton**

NOTE: Proposed additions to existing Code sections are underlined.
Proposed deletions of existing Code sections are ~~crossed out~~.
Other sections of the Ordinance are unchanged.

The Town of Dayton hereby ordains and enacts “An Ordinance to the Zoning Ordinance of the Town of Dayton to Prohibit Retail Marijuana Uses and to Permit Medical Marijuana Uses Within the Town of Dayton

ARTICLE 4: CONSTRUCTION OF LANGUAGE AND DEFINITIONS

4.2 DEFINITIONS

AGRICULTURE

The commercial use of land for the purpose of growing plants, crops trees and other agricultural, or horticultural purposes, or raising farm animals or processing and selling farm products. Agricultural does not include forest management and timber harvesting activities. Agriculture does not include the growing, production, testing, sale or processing of marijuana.

MARIJUANA

As defined in State Administrative Rules 10-144 CMR Chapter 122, § 1.17.

MARIJUANA PARAPHERNALIA

Marijuana paraphernalia shall be defined in the same way as defined by the Maine Department of Health and Human Services in its Rules Governing the Maine Medical Use of Marijuana Program, 10-144 CMR Chapter 122, § 1.27.

MEDICAL MARIJUANA

Marijuana specifically permitted pursuant to the Maine Medical Use of Marijuana Act.^[2]

MEDICAL MARIJUANA CAREGIVER

As defined in State Administrative Rules, 10-144 CMR Chapter 122, § 1.31, "Primary Caregiver." A person who is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with the Maine Medical Use of Marijuana Act.^[2] A caregiver may cultivate and grow medical marijuana within a permitted Medical Marijuana Caregiver Growing Facility or within the caregiver's primary year-round residence.

MEDICAL MARIJUANA CAREGIVERS, GROWING FACILITY

A building used for cultivating, processing, testing, and/or storing of medical marijuana by a medical marijuana caregiver at a location which is not the medical marijuana caregiver's primary year-round residence or their qualifying patient's primary year-round residence, and which is located in an Industrial Commercial district. The facility shall not contain more than three separate licenses. The building may have patient rooms within the building separate from plant cultivation and processing.

MEDICAL USE

Medical use means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of medical marijuana or paraphernalia relating to the administration of medical marijuana to treat or alleviate a patient's debilitating medical condition or systems associated with the qualifying patient's debilitating medical condition, 10-144 CMR Chapter 122, § 1.23.

REGISTERED MEDICAL MARIJUANA DISPENSARY

A not-for-profit entity registered pursuant to the Maine Medical Use of Marijuana Program that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to registered patients who have designated the registered marijuana dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients. Accessory uses are limited to commercial kitchen facilities for preparing food, drinks, tinctures, and balms containing medical marijuana; counseling services for medical marijuana patients, alternative therapies for medical marijuana patients, such as massage and acupuncture, and the sale of medical marijuana delivery appliances.

REGISTERED MEDICAL MARIJUANA DISPENSARY, GROW-ONLY

A not-for-profit entity registered under 22 M.R.S.A. §2422, Subdivision 6, that possesses and cultivates marijuana for medical use in conjunction with a "registered dispensary" or a "registered dispensary, non-growing," at another site, but which does not dispense medical marijuana. Accessory uses are limited to commercial kitchen facilities for preparing food, drinks, tinctures, and balms containing medical marijuana.

REGISTERED MEDICAL MARIJUANA DISPENSARY, NON-GROWING

A not-for-profit entity registered under 22 M.R.S.A. §2422, Subdivision 6, that acquires, manufactures, delivers, transfers, transports, sells, supplies, or dispenses marijuana or related supplies and educational materials to registered patients who have designated the dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients. The cultivation must take place off-site, and if in Dayton, at a "registered dispensary" or "registered dispensary grow-only." Accessory uses are limited to commercial kitchen facilities for preparing food, drinks, tinctures, and balms containing medical marijuana; counseling services for medical marijuana patients; alternative therapies for medical marijuana patients such as massage and acupuncture; and the sale of medical marijuana delivery appliances.

RESEARCH AND TESTING FACILITY

A business in which new products or processes are created and studied. Research and development facility does not include the growing, production, testing, sale or processing of marijuana.

RETAIL MARIJUANA

Marijuana that is cultivated, manufactured, distributed or sold by a retail marijuana establishment or retail marijuana social club. Retail marijuana is prohibited in the Town of Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

RETAIL MARIJUANA CULTIVATION FACILITY

A facility or an entity licensed to cultivate, prepare and package retail marijuana and to sell retail marijuana to retail marijuana establishments and retail marijuana social clubs. Retail marijuana cultivation facilities are prohibited in the Town of

Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

RETAIL MARIJUANA ESTABLISHMENT

Includes retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities. Retail marijuana establishments are prohibited in the Town of Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

RETAIL MARIJUANA PRODUCT

Concentrated retail marijuana and retail marijuana products that are composed of retail marijuana and other ingredients and are intended for use or consumption, including, but not limited to, edible products, ointments and tinctures.

RETAIL MARIJUANA PRODUCTS MANUFACTURING FACILITY

A facility or an entity licensed to purchase retail marijuana; manufacture, prepare and package retail marijuana products; and sell retail marijuana and retail marijuana products only to other retail marijuana products manufacturing facilities, retail marijuana stores and retail marijuana social clubs. Retail marijuana products manufacturing facilities are prohibited in the Town of Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

RETAIL MARIJUANA SOCIAL CLUB

A facility or an entity licensed to sell retail marijuana and retail marijuana products to consumers for consumption on the licensed premises. Retail marijuana social clubs are prohibited in the Town of Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

RETAIL MARIJUANA STORE

A facility or an entity licensed to purchase retail marijuana from a retail marijuana cultivation facility and to purchase retail marijuana products from a retail marijuana products manufacturing facility and to sell retail marijuana and retail marijuana products to consumers. Retail marijuana stores are prohibited in the Town of Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4); as amended.

RETAIL MARIJUANA TESTING FACILITY

A facility or an entity licensed and certified to analyze and certify the safety and potency of retail marijuana and retail marijuana products. Retail marijuana testing facilities are prohibited in the Town of Dayton, pursuant to the Town's authority under 7 M.R.S.A. § 2447(4), as amended.

5.3 Table of Land Uses:

Land uses permitted in each District other than the Saco River Buffer District, in conformance with the Performance Standards of Article 5, are shown in the following table. Uses permitted in the Saco River Buffer District are those permitted by the most recent Saco River Corridor Commission's regulations.

Key:

P Permit from Code Officer after Site Review N Not Permitted

PB Requires Planning Board Review

* Subject to Specific Performance Standards

Proposed Use	<u>Ordinance Ref</u>	<u>Village</u>	<u>Resource Protection</u>	<u>Shoreland Overlay</u>	<u>Mixed Use</u>	<u>Rural Forest</u>	<u>Rural Fields</u>	<u>Critical Rural</u>	<u>Commercial Industrial</u>
Accessory Structures	5.4.(2)	P	PB	PB	P	P	P	P	P
Active Outdoor Recreation		PB	PB	PB	PB	PB	PB	PB	PB
Agriculture, Nurseries, Gardening	7.5	P	P	P	P	P	P	P	P
Amusement centers	7.1	PB	N	N	PB	PB	PB	N	PB
Animal Husbandry	7.11	N	N	N	P	P	P	PB	PB
Auto Junk Yard*		N	N	N	PB	PB	PB	N	PB
Auto Repair Garage*		N	N	N	PB	PB	PB	N	PB
Auto Service Station*		N	N	N	PB	PB	PB	N	PB
Banks		PB	N	N	P	PB	PB	N	P
Bed and breakfast	7.2	PB	N	N	PB	PB	PB	PB	N
Boat and RV Sales and Service		N	PB	PB	PB	N	N	N	P
Bottle Club		N	N	N	PB	PB	PB	PB	PB
Bulk Fuel Storage		N	N	N	N	N	N	N	PB
Bus. and Professional Offices(1)		PB	N	N	PB	PB	PB	PB	P

Proposed Use	<u>Ordinance Ref</u>	<u>Village</u>	<u>Resource Protection</u>	<u>Shoreland Overlay</u>	<u>Mixed Use</u>	<u>Rural Forest</u>	<u>Rural Fields</u>	<u>Critical Rural</u>	<u>Commercial Industrial</u>
Bus. and Professional Offices(2)		N	N	N	PB	PB	PB	N	P
Campgrounds	7.3	N	PB	PB	PB	PB	PB	PB	N
Car Wash		PB	N	N	PB	PB	PB	PB	PB
Cemeteries		PB	N	N	PB	PB	PB	PB	N
Churches		PB	N	N	PB	PB	PB	PB	PB
Cluster Development	7.17	N	N	N	N	PB	PB	PB	N
Commercial Recreation	7.6	N	N	N	PB	PB	PB	PB	N
Daycare Facility		PB	N	N	PB	PB	PB	PB	N
Daycare Home		PB	N	N	PB	PB	PB	PB	N
Duplexes	5.4 (1)	P	N	N	P	P	P	P	N
Earth Moving Activities	7.7	N	N	N	PB	PB	PB	N	PB
Elderly Housing		PB	N	N	PB	PB	PB	N	N
Flea Market		N	N	N	PB	PB	PB	N	PB
Forestry		P	P	P	P	P	P	P	P
Funeral Homes		N	N	N	PB	PB	PB	N	PB
Golf Course		N	PB	PB	PB	PB	PB	PB	N
Home Occupations*	7.7	P	N	P	P	P	P	P	N
Individual Private campsites	7.4	N	P	P	P	P	P	P	N
Industrial1		PB	N	N	PB	PB	PB	PB	PB
Industrial2		N	N	N	PB	PB	PB	PB	PB
Inn	7.10	PB	N	N	PB	PB	PB	PB	N

Proposed Use	<u>Ordinance Ref</u>	<u>Village</u>	<u>Resource Protection</u>	<u>Shoreland Overlay</u>	<u>Mixed Use</u>	<u>Rural Forest</u>	<u>Rural Fields</u>	<u>Critical Rural</u>	<u>Commercial Industrial</u>
Kennels		PB	N	PB	PB	PB	PB	N	N
Libraries, Museums		PB	N	N	PB	PB	PB	PB	PB
Manufacturing		N	N	N	PB	PB	PB	N	PB
<u>Medical Marijuana Caregiver</u>	<u>7.28</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>
<u>Medical Marijuana Caregivers, Growing Facility</u>	<u>7.28</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>
Medical Offices & Clinic		N	N	N	PB	PB	PB	PB	PB
Mobile Home Parks*	7.13	N	N	N	PB	PB	PB	N	N
Motels-Hotels	7.10	PB	N	N	PB	PB	PB	PB	PB
Motor Vehicle Sales		N	N	N	N	N	PB	N	PB
Multi-Family Dwellings*	7.14	PB	N	N	PB	PB	PB	PB	N
Municipal Uses		PB	PB	PB	PB	PB	PB	PB	PB
Neighborhood Convenience Store		PB	N	N	PB	PB	PB	PB	PB
Nursing Homes		PB	N	N	PB	PB	PB	PB	N
Open Space		P	P	P	P	P	P	P	P
Passive Outdoor Recreation		P	P	P	P	P	P	P	N
Personal Services1		PB	N	N	PB	PB	PB	PB	PB
Personal Services2		N	N	N	PB	PB	PB	PB	PB
Private Clubs		N	N	N	PB	PB	PB	N	N
Public and Private Parks		P	PB	PB	P	P	P	P	N
Public Utilities		N	N	N	PB	PB	PB	N	PB
<u>Registered Medical Marijuana Dispensary</u>	<u>7.28</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>

Proposed Use	Ordinance Ref	Village	Resource Protection	Shoreland Overlay	Mixed Use	Rural Forest	Rural Fields	Critical Rural	Commercial Industrial
<u>Registered Medical Marijuana Dispensary, Grow Only</u>	7.28	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>
<u>Registered Medical Marijuana Dispensary, Nongrowing</u>	7.28	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>PB</u>
Research and Testing Facilities		N	N	N	PB	PB	PB	N	PB
Restaurants	7.15	PB	N	N	PB	PB	PB	N	N
Restaurant Drive-In		PB	N	N	PB	PB	PB	N	PB
Restaurants Fast Food		PB	N	N	PB	PB	PB	N	N
Retail Marijuana Establishment		N	N	N	N	N	N	N	N
Retail Marijuana Social Club		N	N	N	N	N	N	N	N
Retail Marijuana Testing Facility		N	N	N	N	N	N	N	N
Retail Stores (1)		PB	N	N	PB	PB	PB	N	PB
Retail Stores (2)		N	N	N	PB	PB	PB	N	PB
Schools- Public or Private	7.16	PB	N	N	PB	PB	PB	PB	N
Seasonal Farm Stands		P	P	P	P	P	P	P	P
Signs*	6.13	P	N	N	P	P	P	P	P
Single Family Dwelling		P	N	N	P	P	P	P	N
Spreading/Storage of Sludge		N	N	N	P	P	P	P	N
Transmission Towers		N	N	N	PB	PB	PB	PB	PB

Proposed Use	Ordinance Ref	Village	Resource Protection	Shoreland Overlay	Mixed Use	Rural Forest	Rural Fields	Critical Rural	Commercial Industrial
Veterinary Clinic	7.11	N	N	N	PB	PB	PB	N	PB
Warehouse and Outdoor Storage		N	N	N	PB	PB	PB	N	PB
Wholesale Business		N	N	N	PB	PB	PB	N	PB
Yard Sales		Y	Y	Y	Y	Y	Y	Y	Y
Uses similar to permitted uses		P	P	P	P	P	P	P	P
Uses similar to conditional uses		PB	PB	PB	PB	PB	PB	PB	PB
Uses similar to prohibited uses		N	N	N	N	N	N	N	N
Notes									
1) 2500 Sq. Ft. or less or 6 employees or less									

**ARTICLE VII: PERFORMANCE STANDARDS,
SPECIFIC ACTIVITIES AND LAND USES:**

- 7.1 Amusement centers
- 7.2 Bed and Breakfast
- 7.3 Campgrounds and Tenting Grounds
- 7.4 Individual Private Campsites
- 7.5 Agriculture
- 7.6 Commercial Recreation Facility
- 7.7 Earth Material Removal
- 7.8 Home Occupations
- 7.9 Ground Water/Spring Water Extraction and/or Storage
- 7.10 Hotels Motels Inns
- 7.11 Kennels and Veterinary Hospitals
- 7.12 Manufactured Housing
- 7.13 Mobile Home Parks
- 7.14 Multi-Family Developments and Condominiums
- 7.15 Restaurants
- 7.16 Schools Colleges, Churches Fraternal Organizations, and Not for Profit Clubs
- 7.17 Planned Unit Development, and Cluster Development
- 7.18 Accessory Dwelling Units (ADU)
- 7.19 Watercourse Alteration or Relocation
- 7.20 Parking Areas
- 7.21 Roads and Driveways
- 7.22 Essential Services
- 7.23 Clearing or Removal of Vegetation for Activities Other than Timber Harvesting
- 7.24 Hazard Trees, Storm Damaged Trees, Dead Tree Removal
- 7.25 Exemptions to Clearing and Vegetation Removal Requirements
- 7.26 Revegetation Requirements
- 7.27 Archaeological Sites
- 7.28 Medical Marijuana

7.28 Medical Marijuana

- A. Medical Marijuana Caregivers, Growing Facility; Registered Medical Marijuana Dispensary; Registered Medical Marijuana Dispensary, Grow-Only; and Registered Medical Marijuana Dispensary, Nongrowing are permitted subject to the following performance standards, in addition to the requirements of the districts in which Medical Marijuana uses are located:
1. Notwithstanding any other provision of the Dayton Ordinances, all medical marijuana uses shall be reviewed as conditional uses by the Dayton Planning Board.
 2. Medical Marijuana uses must meet all of the standards and conditions imposed by the State of Maine and DHHS issued under the aegis of the Maine Medical Use of Marijuana Program.
 3. Notwithstanding the Maine Department of Health and Human Services Rules Governing the Maine Medical Use of Marijuana Program, such uses shall be prohibited on parcels of land with a lot line located within 1,000 linear feet of the lot line of any preexisting public or private school facility; or any preexisting and licensed day-care center or day-care home.
 4. Any building involved in the cultivation, distribution and processing of marijuana shall be constructed with opaque windows or walls, so that the interior is completely screened from lot lines and from any person passing along the normal street boundaries of the lot on which it is located.
 5. All buildings shall be protected by use of fire suppression sprinkler systems or other effective fire suppression system approved by the Planning Board.
 6. All buildings shall have a Knox-Box® to allow entry by Fire Department personnel in the event of an emergency at the location.
 7. The property shall have at least one parking space per 1,000 square feet of gross floor area, and such additional parking as may be required by the Planning Board.
 8. No building shall be allowed to be constructed or occupied within 500 feet of an existing dwelling unit's lot lines.
 9. The building shall be constructed with a security system with recordable video surveillance. The Planning Board may require a chain link fence or solid fence, six feet in height, may be required surrounding the building(s) and parking area.. Exterior lighting must be sufficient to deter nuisance activity and facilitate surveillance.
 10. Operating hours of the property:
 - a. Dispensing of medical marijuana, products and materials shall not take place prior to 7:00 a.m. and later than 8:00 p.m. on any day.
 - b. Deliveries shall not take place prior to 7:00 a.m. and later than 8:00 p.m. on any day.
 11. Signs may not contain any visual depiction of marijuana or marijuana paraphernalia. Outdoor displays, window displays, or displays visible from the outside of the building intended to attract attention to or generate interest in the uses on the property shall be prohibited.

12. Vegetative buffers may be required by the Planning Board to create a visual screen or minimize odors.
13. The growing, cultivating, production, processing, testing, and/or storing of medical marijuana shall be located within a building. Said activities may not be conducted anywhere outside of a building.
14. Drive through, drive up, or window services are prohibited.
15. Offensive or harmful odors perceptible beyond the property boundary lines, either at ground or habitable elevations shall be prohibited
16. The owner(s) of a building intended for lease to a caregiver (growing) or a growing facility shall register with the Town Clerk's Office each year and apply for and receive a business license from the Town Clerk's Office prior to operation. Each lessee within said building shall apply for and receive a business license from the Town Clerk's Office. Failure to register and obtain a business license shall disqualify either an owner or lessee from operating in Dayton.
17. Annual safety inspections by the Fire Department and Code Enforcement Office shall be conducted.
18. Extraction of marijuana for concentrates, such as but not limited to oil, butter, wax, or shatter shall be permitted subject to compliance with NFPA(1) standards.

B. Medical Marijuana Caregivers are permitted within the caregivers primary year-round residence subject to the following performance standards, in addition to the requirements of the districts in which Medical Marijuana Caregiver use is located:

1. Notwithstanding any other provision of the Dayton Ordinances, all medical marijuana uses shall be reviewed as Conditional Uses by the Dayton Planning Board.
2. The caregiver shall be at least twenty-one (21) years of age;
3. The caregiver resides in the dwelling unit as his/her primary year-round residence in conformance with the Maine Medical Use of Marijuana State Administrative Rules or as otherwise specified in Maine statutes and/or administrative rules;
4. A caregiver who does not own his or her primary residence shall obtain notarized written permission from the property owner prior to cultivating marijuana and shall make the written permission available to the Town, upon request.
5. Caregivers shall cultivate medical marijuana within an enclosed, locked building or within an outdoor area which is accessible only by the individual authorized to cultivate the marijuana in conformance with the Maine Medical Use of Marijuana State Administrative Rules or as otherwise specified in Maine statute and/or administrative rules.
6. Medical Marijuana shall be distributed to medical marijuana patients within an enclosed building. Drive thru, drive-up or window service is prohibited.
7. Marijuana cultivation shall only be conducted in a contiguous area of not more than one-quarter (1/4) of the total square footage of the dwelling unit or one-hundred (100) square feet, whichever is greater. No medical

marijuana shall be grown, cultivated, processed, and/or stored within a common area or limited common area of the property that is devoted to residential use.

8. Marijuana cultivation shall only be conducted in a primary residence which has functioning kitchens, bathrooms and bedrooms.
9. No exterior evidence of cultivation, including signs, shall be visible from a public way or area. Marijuana plants shall be entirely screened from common visual observation from a public way or area by natural objects, plantings, or a solid fence at least six (6) feet or taller in height, density, and depth sufficient to accomplish complete screening of plants from ordinary view. Should the plants grow higher than the screening such that they are visible from a public way or area, either the plants shall be cut to not extend higher than the screening or the individual who is authorized to cultivate the marijuana shall install additional screening sufficient to conceal the plants from public view within ten (10) days of notification of the violation by the Town's Code Enforcement Officer.
10. Commercial sale of marijuana grown, cultivated, processed, and/or stored on a caregiver's residential property, except for members of the household and family members who are qualifying patients not residing in the household or as otherwise allowed under the Maine Medical Use of Marijuana State Administrative Rules or as otherwise specified in Maine statute and/or administrative rules, and the sale of marijuana paraphernalia is prohibited.
11. Accessory uses such as preparing food, drinks, tinctures, and balms containing medical marijuana; counseling services for medical marijuana patients are permitted. Alternative therapies for medical marijuana patients such as massage and acupuncture and the sale of medical marijuana delivery appliances is prohibited.
12. Dispensing of medical marijuana to medical marijuana patients shall not take place prior to 7:00 a.m. and later than 8:00 p.m. on any day.
13. Caregivers shall register with the Town Clerk's Office each year and apply for and receive a business license from the Town Clerk's Office prior to operation. Failure to register and obtain a business license shall disqualify either an owner or lessee from operating in Dayton.
14. Electrical Service shall not be increased beyond 200 amps.
15. Annual safety inspections by the Fire Department and Code Enforcement Office may be conducted.
16. Extraction of marijuana for concentrates, such as but not limited to oil, butter, wax, or shatter shall be permitted provided butane or similarly flammable and hazardous industrial solvents are not utilized.

*Adopted 6/15/91
Virginia W. Foster
Town Clerk*

TOWN OF DAYTON

ORDINANCE REGULATING MASSAGE ESTABLISHMENTS

ARTICLE I. IN GENERAL

Sec. 1. Purpose.

The purpose of this chapter is to regulate the operation of massage establishments in order to promote the public health, safety and general welfare.

Sec. 2. Definitions.

For purposes of this chapter, the following definitions shall apply unless the context clearly implies otherwise:

Massage or therapeutic massage are used interchangeably to mean any method of rubbing, kneading, tapping, vibrations, compression, percussion, application of friction or manipulation of the external parts of the human body with the hands or other parts of the body or with the aid of any instrument or device.

Massage establishment or therapeutic massage establishment are used interchangeably to mean any business, including but not limited to a sole proprietorship, in which the business operations consist of providing or making available massage in the Town of Dayton for consideration or with the expectation of receiving consideration or any gratuity, whether or not the business has a fixed place of business within town limits.

Massage therapist means any person who performs therapeutic massage for consideration or gratuity or with the expectation of receiving consideration or any gratuity.

Patron means any person who receives a therapeutic massage.

Person means an individual, partnership, corporation or other entity.

Recognized school means any school or institution of learning which has for its purpose the teaching of the theory, method, profession and work of massage therapy and is recognized or certified by the State of Maine or any other state. Schools offering a correspondence course not requiring actual attendance of class shall not be deemed a recognized school.

Sec. 3. Exemptions.

The following persons shall be exempt from this chapter if duly licensed by and while practicing in accordance with the laws of this State: Physicians, physician's assistants, surgeons, osteopaths, nurses, chiropractors, physical therapists,

barbers, cosmetologists, beauticians and other health and hygiene professionals.

Sec. 4. Massage tables.

All therapeutic massage shall be administered on a massage table, treatment table or treatment mat.

Sec. 5. Maintenance and cleaning.

Every person who conducts or operates a therapeutic massage establishment shall keep the same at all times in a clean and sanitary condition. All instruments, supplies and devices of any kind, or parts thereof, that come into contact with the human body shall be kept clean by a modern and approved method of cleaning.

Sec. 6. Prohibited activities.

- A. No massage therapist shall administer a massage to a patron whose genitals are exposed.
- B. No massage therapist shall administer or agree to administer a massage to the genitals or anus of a patron.
- C. No massage therapist shall administer a massage unless he or she is fully clothed with non-transparent clothing of the type customarily worn by massage therapists while administering a massage.

Sec. 7. Closing hours.

No massage establishment shall be kept open for massage purposes between the hours of 8:00 p.m. and 8:00 a.m.

Sec. 8. Supervision.

At all times when open for business, a therapeutic massage establishment shall have upon the premises a licensed massage therapist or person who possesses a combination massage establishment/massage therapist license who shall be available to supervise the operation of the establishment and assure that no violations of this chapter occur.

Sec. 9. List of employees.

The therapeutic massage establishment shall keep a written list of the names and current addresses of all employees, both on duty and off duty. Such list shall be shown to the chief of police, his authorized deputy, the Town clerk or her representative, upon request.

ARTICLE II. LICENSES

Sec. 10. Required.

- A. Therapeutic Massage Establishment License. No person shall operate a therapeutic massage establishment without a valid therapeutic massage establishment license. A separate license shall be required for each such establishment.
- B. Massage Therapist License. No person shall work as a massage therapist without a valid massage therapist license or a combined massage establishment/therapist license.
- C. Combined Massage Establishment/Massage Therapist License. A sole practitioner who employs no massage therapist other than himself/herself may apply for a combined massage establishment/massage therapist license in lieu of both a therapeutic massage establishment license and a massage therapist license.

Sec. 11. Licenses displayed.

A valid therapeutic massage establishment license shall be displayed at all times in an open and conspicuous place in the massage establishment for which it was issued. A valid conditional massage therapist license, massage therapist license or combined massage establishment/massage therapist license must be readily available to be produced immediately if demanded of the licensee.

Sec. 12. Fees.

Fees for licenses issued pursuant to this Ordinance shall be as follows:

Massage establishment	\$100.00
Massage establishment/massage therapist	75.00
Massage therapist	50.00

Sec. 13. Standards for denial.

A license under this Ordinance shall be denied to the following persons:

- A. Therapeutic Massage Establishment License
 - 1. to a corporation not registered to do business in this State.
 - 2. to a corporation if any principal officer thereof or any person having an actual ownership interest

or management authority therein has a disqualifying criminal conviction within the immediately preceding five (5) years; or

3. to an applicant, other than a corporation, if such applicant or any person having an actual ownership interest or management authority therein has a disqualifying criminal conviction, within the immediately preceding five (5) years.

B. Massage Therapist, Combined Massage Establishment/
Massage Therapist

1. to an applicant who has been given a disqualifying criminal conviction at any time during the five (5) years immediately preceding application; or
2. to an applicant who is not at least eighteen (18) years of age.

The clerk shall make and keep a written record of every decision to deny an application for any license hereunder.

Sec. 14. Grounds for suspension or revocation.

A. All licenses. In addition to the grounds for revocation or suspension set forth in Section 13, any license may be suspended or revoked upon a determination that the licensee:

1. failed to notify the clerk of any change in material fact set forth in the application for such license; or
2. violated any provision of this chapter or of chapter 15.

B. Therapeutic massage establishment or combined establishment/therapist license. In addition to the provision of subsection (A), either a massage establishment license or combined establishment/therapist license may be suspended or revoked upon a determination that the licensee:

1. permitted any person to perform therapeutic massage without a valid license to do so;
2. permitted or allowed an employee, massage therapist or conditional massage therapist, to violate any provision of this chapter on the premises of the establishment or in the course of conduct of the business of the establishment; or

3. Knowingly permitted any violation of Title 17-A M.R.S.A. Sections 851 through 855. Such knowledge shall be presumed if there have been two (2) or more convictions for any such offense within any one-year period. The applicant or licensee may rebut said presumption by showing that (i) due diligence was exercised to prevent the recurrence of any such offense and (ii) despite such diligence, he or she did not know and could not reasonably have known of any subsequent offense.

Sec. 15. Application for therapeutic massage establishment, combined massage establishment/massage therapist and massage therapist licenses.

Any person desiring a license pursuant to this chapter shall file a written, signed application with the town clerk on a form to be furnished by the clerk. An application for a combined massage establishment/massage therapist license, or a massage therapist license shall be accompanied by two (2) front face photographs of the applicant taken within thirty (30) days of application, of such size as the clerk may specify.

Sec. 16. Basic proficiency.

Each applicant for a massage therapist license or combined massage establishment/therapist license shall show proof of basic proficiency in the field of massage therapy which may be satisfied by:

- A. evidence of completion of a formal training course in massage therapy given by a recognized school;
- B. evidence of one hundred (100) hours of on-the-job training in therapeutic massage performed in the presence of a person holding a valid massage therapist license or a combined massage establishment/massage therapist license issued by the Town of Dayton.
- C. evidence of continuous practice as a massage therapist for at least one (1) year, accompanied by the written recommendation of at least five (5) persons holding a valid massage therapy license or a combined massage establishment/massage therapist license issued by the Town of Dayton, which shall state that said person has personally received a massage from the applicant that was administered in a skilled and professional manner; or
- D. evidence of successful completion of a certifying exam given by another municipality or state, or of the certifying exam given by American Massage Therapy Association.

Sec. 17. Obtaining license by fraud.

- A. No person shall make any false, untruthful or fraudulent statement, either written or oral, or in any way conceal any material fact, or give or use any fictitious name in order to secure or aid in securing a license required by this chapter. All names, including but not limited to maiden name, ever used by the applicant must be noted on the application.
- B. Any license so secured shall be void.

Sec. 18. Use of license.

No person shall make use of, in any manner, to his own or another's benefit, any license which has not been duly issued to him in accordance with this chapter.

Sec. 19. Compliance of existing therapist and massage establishments.

- A. Any person presently operating as a massage therapist and/or operating a massage establishment in Dayton as defined herein on the effective date of this Ordinance shall comply with the terms of this Ordinance by obtaining a license hereunder within three (3) months of the effective date of this Ordinance.
- B. Any license issued pursuant to this chapter between the effective date hereof and December 31, 1991 shall be valid until December 31, 1992. For any license issued pursuant to this chapter after December 31, 1991, the expiration date shall be December 31 of the year in which the license is issued. Every license must be renewed annually.

Sec. 20. Severability.

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

Sec. 21. Penalty.

The violation of any provision of this chapter shall be punished by a fine not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) for each offense. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalty, the town may enjoin or abate any violation of this chapter by appropriate action.

Town of Dayton

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, “An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act”; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy (“PACE”) Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

§ XX-1 Purpose

By and through this Chapter, the Town of Dayton declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy (“PACE”) program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

§ XX-2 Enabling Legislation

The Town enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- “An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses,” also known as “the Property Assessed Clean Energy Act” or “the PACE Act” (codified at 35-A M.R.S.A. § 10151, *et seq.*).

ARTICLE II - TITLE AND DEFINITIONS

§ XX-3 Title

This Chapter/Ordinance shall be known and may be cited as “the Town of Dayton Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).”

§ XX-4 Definitions

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

1. Energy saving improvement. “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy, Energy Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

2. Municipality. “Municipality” shall mean the Town of Dayton

3. PACE agreement. “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

4. PACE assessment. “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.

5. PACE district. “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

6. PACE loan. “PACE loan” means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

7. **PACE mortgage.** “PACE mortgage” means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

8. **PACE program.** “PACE program” means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

9. **Qualifying property.** “Qualifying property” means real property located in the PACE district of the Municipality.

10. **Renewable energy installation.** “Renewable energy installation” means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

11. **Trust.** “Trust” means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE III - PACE PROGRAM

§ XX-5 Establishment; funding. The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust’s administration of the municipality’s PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality’s PACE program.

§ XX-6 Amendment to PACE program. In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

1. Standards adopted; Rules promulgated; model documents. If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE V – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
- ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. Assistance and Cooperation. The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2. Liability of Municipal Officials; Liability of Municipality

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

PARKING ORDINANCE

TOWN OF DAYTON, MAINE

1. AUTHORITY AND PURPOSE: This ordinance is adopted by the Municipal Officers (Selectmen) of the Town of in accordance with 30-A MRSA § 3009. The Selectmen find that unrestricted parking of motor vehicles on certain portions of public ways in Town creates a traffic hazard and is dangerous to motorists and pedestrians alike. Unrestricted parking causes traffic congestion, reduces sight distances for motorists, impedes winter maintenance, and causes motorists to drive outside the designated travel lane and into oncoming traffic. The purpose of this ordinance is to regulate parking as necessary to protect the public health, safety and welfare.

2. DEFINITIONS:

“Public Way” means any town way or public easement as defined in 23 M.R.S.A. Sec.3021 and any portion of any State-aid highway located within the town. This term includes ways commonly designated as streets, lanes, roads and avenues and includes paved or unpaved shoulders of such ways.

“Motor Vehicle” is any vehicle defined in 29 M.R.S.A. Sec.1

Any other term used in this ordinance shall have its common, ordinary meaning unless otherwise indicated.

3. RESTRICTIONS: No person shall park a motor vehicle on the following public ways (see list attached as Exhibit A) or portions of public ways, where "No Parking / Tow Away Zone" signs or signs bearing similar language have been erected by the municipality.

4. TOWING: A motor vehicle parked in violation of this ordinance may be towed by a wrecker authorized by the municipality, at the request of and under the supervision of the town constable or other official duly authorized and appointed by the Selectmen. Towing under this section shall not be allowed unless, at the time of the tow, there is at least 1 sign stating that violators may be towed and indicating the telephone number and address of the place at which a towed car can be recovered.

5. RELEASE OF TOWED VEHICLE: Any person seeking release of a motor vehicle towed pursuant to this ordinance must first (a) pay all towing charges and storage charges and (b) present satisfactory evidence of his or her right to possession and sign a receipt for the vehicle.

6. PRIMA FACIE EVIDENCE OF OPERATION: No person shall cause, allow or permit a motor vehicle registered in his or her name to park in violation of this ordinance. The fact that a motor vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered.

7. ENFORCEMENT AND PENALTIES: This ordinance shall be enforced by the Municipal Officers or their duly appointed designee. Violations of this ordinance shall be traffic infractions and shall be prosecuted, if necessary, in the appropriate District Court.

8. SEVERABILITY AND EFFECTIVE DATE: In the event that any provision of this ordinance is declared by a court to be unenforceable, the remaining provisions continue in full force and effect. This ordinance shall become effective when adopted by a majority of the Board of Selectmen.

9. AMENDMENTS: This ordinance may be amended as deemed necessary by a majority vote of the board of selectmen. The selectmen shall conduct a public hearing on any proposed amendment.

Date adopted: May 2003

EXHIBIT A:

Enacted May 2003

Amended April 30, 2004

No Person shall park a motor vehicle on the following public ways or portions of public ways where No Parking/Tow Away Zone” signs or signs bearing the similar language have been erected by the municipality:

- (1) Company Road from the intersection of Union Falls Road to Red Brook, no parking on both side of street.
- (2) No Parking on Union Falls Road From intersection of Hollis Road to end of street, no parking both sides of street
- (3) Landing Road from intersection of Union Falls Road to Gate across road leading to Skelton Dam, no parking both sides of street
- (4) Route 35, between New County Road and the Lyman Town Line.

Ordinance Regulating the Use and Weight of Certain Vehicles on Town Ways and Public Easements

Adopted August 14, 1986

Amended July 16, 2012

Section I. Title, Purpose, Authority and Definitions, Rules of Construction

A. Title

This ordinance shall be known and may be cited as the Vehicular Use and WeightControl Ordinance of the Town of Dayton.

B. Purpose.

The purpose of this ordinance is to regulate the weight of vehicles and the use of certain vehicles on certain town ways and public easements within the Town of Dayton. The restrictions imposed prevent safety hazards and damage, which damage has been or will be caused by the passage of vehicles which are too heavy for the designated town ways and public easements. Preventing safety hazards and damage to the roads reduces any cost of maintenance, reduces the danger of injury to the traveling public, and generally improves the use of roads by the public.

C. Authority.

This ordinance is enacted pursuant to Title 30A MRSA § 3001, and 3009, and Title 29A MRSA § 1611, 2352, and 2381.

D. Definitions.

- 1. Commercial Vehicle:** a vehicle greater than 16" in length including any attached trailer or semi-trailer which is being used or is normally used to earn money or for some other business purpose. Vehicles used to make residential deliveries or rented on an occasional basis for some purpose other than earning money or use in a business shall not be considered commercial vehicles.
- 2. Gross Vehicle Weight:** shall mean the total weight of the vehicle and its load. A vehicle and any attached trailer or semi-trailer shall be considered one vehicle for purposes of determining gross weight.
- 3. Public Easement:** an easement held by a municipality for purposes of public access to land or water not rights enjoyed by the public with respect to private

ways created by statute prior to the effective date of this ordinance. Private ways created pursuant to 23 MRSA § 3022 and 3026 prior to the effective date of this ordinance are public easements.

4. **Town Way:** an area or strip of land designated and held by a municipality for the passage and use of the general public by motor vehicle and all town or county ways not discontinued or abandoned before the effective date of this ordinance.
5. **Other Words:** The definitions contained in Title 29A § 101 of the Maine Revised Statutes Annotated shall govern the construction of other words contained in this ordinance.

E. Rules of Construction:

Any reference to a Title and Section of the Maine Revised Statutes Annotated shall include any amendments, whenever enacted, to the referenced Title and Section unless the amendments support a result which is inconsistent with the purposes of this ordinance, in which case the amendments shall be disregarded.

Section II. Rules and Regulations:

A. Permanent Load Restrictions upon Vehicles Using Certain Ways:

1. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of 50,000 lbs. at any time upon any of the following town ways or public easements:
 - a) Mast Road from Lyman town line to Goodwins Mills Road
 - b) Hollis Road from Hight Road to Dyer Road
 - c) Dyer Road from Hollis Road to Hollis town line
 - d) Hight Road
 - e) Union Falls Road
 - f) Gould Road
 - g) Company Road
 - h) Buzzell Road
2. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of 69,000 lbs Gross Vehicle Registered Weight (GVRW), at any time upon any of the following town ways or public easements:
 - a) Hollis Road from New County Road to Hight Road

B. Certain Ways Closed to Commercial Vehicles:

When signs are erected giving notice thereof, no person shall operate any commercial vehicle on any town way or public easement so posted.

C. Enactment of Restrictions:

1. Any restriction, alteration, amendment, or removal of a restriction proposed by the municipal officers pursuant to this ordinance shall be enacted after notice and a public hearing.
2. The public hearing may be held as part of a regularly scheduled meeting of the municipal officers.
3. The notice of the public hearing shall be posted at least seven days before the hearing in the same manner and place required for posting the warrant for calling a town meeting.

D. Emergency Enactment:

If the municipal officers determine that an emergency exists which requires the immediate enactment or removal of a restriction, alteration, or amendment, the municipal officers may enact the necessary restriction, alteration or amendment without notice and a public hearing as required by Section II (D) and any restriction, alteration, or amendment so enacted shall be effective as soon as signs are erected giving notice thereof. Any restriction, alteration, or amendment enacted or removed as an emergency measure shall only remain in effect for 20 days from the date signs are erected.

E. Permits:

Permits may be granted by the municipal officers pursuant to 29A § 2381.

F. Exempt Vehicles:

The following vehicles are exempt from this ordinance so long as their gross weight is less than 50,000 lbs.

- a) Any two axle home heating fuel delivery truck either registered for a gross weight of 50,000 lbs. or less or if registered in excess of 50,000 lbs., which has an exemption certificate issued by the Maine Department of Transportation.
- b) Any vehicle engaged in road maintenance under the direction of the municipality.

Section III. Enforcement:

- A. This ordinance may be enforced by any duly appointed law enforcement officer of the Town of Dayton, any duly appointed law enforcement law enforcement officer of the Maine State Police.
- B. This ordinance shall be enforced according to the provisions of 29A MRSA § 2601, 2602, 2603, and 2605 which are hereby incorporated by reference and copies of which are attached to this ordinance.
- C. Any other provision of this ordinance notwithstanding, the operator of any vehicle entering or leaving the Town of Dayton or operating on ways designated in Section II A within the Town of Dayton, upon request or direction of any law enforcement official shall drive such vehicle upon a suitable set of platform or portable scales for the weighting of motor vehicles, and shall permit examination of the registration certificate covering such vehicle and of any load carried thereon. Whenever such examination of load carried requires the breaking of a seal previously placed on the vehicle, a new seal shall be placed thereon, and complete records made and forwarded to the Chief of the State Police concerning the seal so broken and replaced, except that seals on trucks having exposed refrigeration units shall not be broken.
- D. When an officer determines that a vehicle which is within the gross maximum weight limits is in violation of the axle weight limits, he shall permit the operator to redistribute the load once by hand before proceeding, and if it then conforms to the axle weight limits of this ordinance, no penalty for such violation shall be imposed.
- E. The operation of the vehicle shall be prima facie evidence that said operation was caused by the person, firm, or corporation holding any permit or certificate for said vehicle from the Public Utilities Commission.
- F. The Maine District Court shall have original and exclusive jurisdiction overall prosecutions for violations of this ordinance.

Section IV. Penalties:

- 1. Any person found guilty of violating any provision of this ordinance shall be subject to a fine of not less than \$10.00 nor more than \$500.00, according to the following schedule:
 - a) Less than 1,000 lbs. overweight ____ \$10.00 or
1,000 lbs. or more overweight ____ \$50.00 for each 1,000 lbs. or part thereof in excess of the posted limit.

Each violation shall be considered a separate offense and violation of this ordinance. All fines imposed pursuant to this ordinance shall accrue to the Town of Dayton.

2. In addition to any fines imposed pursuant to Section IV (A), any person violating this ordinance shall be responsible for all damage which said town way or public easement may sustain as a result thereof and the amount may be recovered in a civil action brought by the municipality. Any amount so recovered shall be used for repair of the ways so damaged. This section shall not be construed to limit the amount that may be recovered by the Town in a civil action. Any amount recovered in excess of the amount needed to repair the damaged way shall accrue to the town. If the Town prevails in a civil action brought pursuant to this section, it shall be entitled to an award of reasonable attorney's fees in addition to any damages awarded.
3. The operator or owner of any vehicle operating on any of the streets or ways designated in Section II (A), who refuses to permit the weighing of such vehicle shall be punished by a fine of not less than \$500.00 nor more than \$1,000.00 or by imprisonment for not more than 90 days or by both. All fines and forfeitures collected shall accrue to the Town of Dayton.

Section V. Severability:

If any section or provision or part of this ordinance shall be judged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the ordinance as a whole or of any other section or provision or part hereof.

Section VI. Effective Date:

This Ordinance shall be effective immediately upon enactment by vote of the municipality.

Dayton Board of Selectmen – Dated _____

Ted Poirier _____

Scott Littlefield _____

Gerry Taylor _____

1. TITLE

This Ordinance shall be known as the Solid Waste and Recycling Ordinance for the Town of Dayton Maine and referred to herein as the "Ordinance".

2. AUTHORITY

This Ordinance is adopted pursuant to the Town's Home Rule Powers under Article VIII-A of the Maine Constitution, 30-A MRSA §3001, *et seq.*, and 38 MRSA §1304 and §1305.

3. PURPOSE

The purposes of this Ordinance are:

- A. To allow the Town to regulate the disposal of solid waste, to ensure that wastes are properly and cost effectively separated, collected, transported and disposed of, to adhere to State and federal environmental regulations and statutes, and to effectively manage the Town's transfer station facility.
- B. To control the costs of solid waste management and to more fairly allocate the costs of waste disposal to those who generate the waste.
- C. To allow the Town to encourage the recycling of solid waste materials to ensure that State goals regarding recycling are met, and to lessen degradation to the environment by reducing the volume of waste placed in landfills or burned at waste-to-energy plants.

4. ADMINISTRATION

This Ordinance shall be administered by the Municipal Officers and/or their designees, with the powers and duties as follow:

- A. To institute all necessary procedures, either legal or equitable, to enforce this Ordinance.
- B. To review any alleged violations of this Ordinance, and, after notice and hearing as required, to impose appropriate penalties for any such violations.
- C. To provide education on a continuing basis concerning the methods of solid waste disposal and recycling, including any change in disposal and recycling requirements.
- D. To provide necessary pickup and disposal contracts, consistent with the best cost and service.
- E. To establish reasonable rules and regulations relating to curbside pickup, recycling, and the operation of the Transfer Station.

- J. Person. Any individual, firm, corporation, partnership, association, municipality, quasi-municipal corporation, school, State agency or any other legal entity.
- K. Recyclable Materials. Items that possess physical and economic characteristics which allow them to be recovered, separated, collected or reprocessed for sale or reuse other than use as fuel for generation of heat steam or electricity. These items include but are not limited to newspapers, magazines, phone books, mail, cereal boxes, used envelopes, white paper, colored paper, flattened and banded cardboard, paper bags, bottles, cans, glass and #1 and #2 plastic.
- L. Recycling. The separating, collecting and/or processing of Recyclable Materials.
- M. Residence. Any home, apartment or condominium. The term, "residence," shall not include motels, hotels, rooming houses, tourist cottages and similar establishments; structures containing five or more dwelling units; and any commercial or industrial establishment.
- N. Solid Waste. Any acceptable discarded or unwanted solid organic or inorganic material with insufficient liquid content to be free flowing.
- O. Special Waste. Any solid waste generated by sources other than domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, that may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures. To the extent not included in the definition of Hazardous Waste, Special Waste includes, but is not limited to:
 - 1. Oil, coal, wood and multifuel boiler and incinerator ash;
 - 2. Industrial and industrial process waste;
 - 3. Waste water treatment plant sludge, paper mill sludge and other sludge waste;
 - 4. Debris and residuals from nonhazardous chemical spills and their cleanup;
 - 5. Contaminated soils and dredge spoils;
 - 6. Asbestos and asbestos-containing waste;
 - 7. Sand blast grit and nonliquid paint waste;
 - 8. High and low pH waste;
 - 9. Spent filter media and residue; and
 - 10. Other waste designated by the Board by rule.

SECTION 6. COLLECTION, TRANSPORTATION, RECYCLING, AND DISPOSAL OF SOLID WASTE FROM RESIDENCES.

- A. The Board is hereby granted the authority, after a duly noticed public hearing, to establish rules and regulations to govern the collection, transportation, separation, recycling and disposal of solid wastes generated by or located on the premises of Residences. Rules and regulations may be enacted to implement any aspect of solid waste requirements for Residences and Commercial Establishments within the Town. The rules and regulations shall be reviewed and revised as required to satisfy the needs of the Town, changes in State and federal laws and regulations and costs the Town may incur to provide Solid Waste management services to Residences. The Board of Selectmen shall establish an effective date for rules and regulations which are adopted. The rules and regulations shall be kept on file in the office of the Town Clerk.

Universal Waste, Special Waste and Hazardous Waste shall be disposed of at an Approved Disposal Facility licensed and certified to handle such wastes.

Unacceptable waste is not to be disposed of within the Town and shall be removed by the owner and shall be disposed of at an Approved Disposal Facility licensed and certified to handle such waste.

- B. The Board shall ensure that all Residences of the Town will be provided with curbside collection service for Solid Waste. The Board shall be authorized to enter into any contract necessary and to prescribe rules and regulations necessary to provide this service, including but not limited to the method and frequency for collection of household waste and Recyclable Materials, Approved Container size(s), and amount of household waste allowed per Residence.
- C. To ensure that State goals for recycling are met, the Board may institute a program for the voluntary or mandatory recycling of Recyclable Materials. The Town may provide for the curbside collection of recyclable materials to all Residences within the Town, and may provide for the collection of recyclable materials from Commercial Establishments without charge.
- D. Acceptable Curbside Waste and Recyclable Materials will only be collected from public roads unless otherwise designated by the Town. Residents on private ways must bring their Acceptable Curbside Waste and Recyclable Materials to a collection point at the intersection of the public way with the private way.

SECTION 7. COLLECTION, TRANSPORTATION, RECYCLING AND DISPOSAL OF SOLID WASTE FROM COMMERCIAL ESTABLISHMENTS

Commercial Establishments are required to ensure that all Solid Wastes generated by or on the premises of the Commercial Establishment are properly collected, transported, separated, recycled and/or disposed of in accordance with the provisions of this Ordinance and the laws of the State of Maine.

The Town of Dayton shall not be responsible for the collection and/or transportation of Commercial Waste.

8. Household waste;
 9. Partially filled containers of glues, tar, solvents, resins, paints, or caulking compounds; friable asbestos; and other special wastes; and
 10. Other wastes identified by the Board by rule.
- E. Once deposited at the Transfer Station, all items of waste shall become the property of the Town and no picking of such waste, including metal or other recyclable materials is permitted from the Transfer Station.

SECTION 9. LICENSING

A. Issuance of Licenses.

1. No person, firm or corporation shall accumulate, collect, store, transport or dispose of Acceptable Waste or Unacceptable Waste generated within the Town without first obtaining a license from the Board, except that a person, firm or corporation that accumulates, collects, stores, transports or disposes of less than 2 ton(s) per month of its own waste shall not be required to obtain such a license.
2. Any person, firm or corporation required by this Ordinance to obtain a license shall make application to the Board, providing the information required. Each initial application shall be accompanied by an annual, non-refundable application fee as set by the Board's fee schedule.
3. The application shall contain all information required by the Board, including but not limited to a description of the activity(ies) engaged in, e.g., collection, transporting, or disposal of Acceptable and/or Unacceptable Waste; type and amount of waste handled in each service area; description of the facility(ies) operated and used; and equipment inventory, including for vehicles a description - the make, model and year of each vehicle used for the collection or transportation of solid waste. All information provided shall be revised annually upon application for license renewal. If the Board determines the application is incomplete, they shall notify the applicant in writing of the specific information necessary to complete it. The Board shall be informed immediately in writing of any changes in or additions to equipment, including vehicles.

DAYTON
TOWN ORDINANCE
ON
STREET ADDRESSES

Section 1: Purpose

The purpose of this ordinance is to enhance the easy and rapid location of properties for the delivery of public safety and emergency services, postal delivery and business delivery with consideration for emergency services being paramount.

Section 2: Authority

This ordinance is adopted pursuant to and consistent with Municipal Home Rules Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A MRSA Section 3001.

Section 3: Administration

This ordinance shall be administered by the Selectmen who shall assign road names and numbers to all properties, both on existing and proposed roads. The Selectmen shall be responsible for maintaining the following official records of this ordinance:

- a. A Town of Dayton map for official use showing road names and numbers.
- b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.
- d. Development and maintenance of a Master Street Address Guide.

Section 4. Naming System

All roads in the Town of Dayton that serve two or more addresses shall be named regardless of whether the ownership is public or private. A road name assigned by the Town of Dayton shall not constitute or imply acceptance of the road as a public way. The following criteria shall govern the naming system:

- a. Similar names - no two roads shall be given the same or similar sounding names.
- b. Each road shall have the same name throughout its entire length.

Adopted

Voted on June 14, 1997

Attest: Virginia W. Hooper
Town Clerk

Section 5. Numbering System

Numbers shall be assigned every 50 fifty feet in intervals no greater than fifty feet apart along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin. The following criteria shall govern the numbering system:

a. All number origins shall begin using the intersection of Rt. 5 and Rt. 35 as the center of origin, or that end of the road closest to the designated center of origin or in a manner that is consistent with numbering of roads in adjacent towns. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.

b. The number assigned to each structure shall be that of the numbering interval falling closest to the front door or driveway of said structure.

c. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy.

Section 6. Compliance

All owners of structures shall, on or before the effective date of this ordinance, display and maintain in a conspicuous place on said structure, the assigned numbers in the following manner:

a. Number on the Structure or Residence. Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry on the residence or structure conspicuously displayed to be easily visible from the road.

b. Number at the Street Line. Where a residence or structure is over 75 feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, mail box or on some structure at the property line adjacent to the walk or access drive to the residence or structure.

c. Size and Color of Number. Numbers displayed shall be a minimum of 4 (four) inches in height, and of a color to contrast with the color of the structure or residence. Numbers shall be made from a light reflective material. Numbers shall be located as to be visible from the road.

d. Every person whose duty is to display the assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance.

e. Interior Location. All residents and other occupants are requested to post the assigned number and road name adjacent to their telephone for emergency reference.

f. Road Signs. The Town of Dayton shall provide, install and maintain street signs for all public ways.

(1) For private ways, the Town of Dayton will provide and install a street sign as a one-time service. Additionally, private ways must clearly display a sign indicating "private way". This sign shall be similar in style and design as the actual street sign. After the initial sign is installed, the property owner owner(s) along said private way must maintain the sign and replace as necessary. Replacement signs may be purchased through the Town of Dayton.

(2) Signs for public ways shall be white or silver reflective letters on a green background. Signs for private ways shall be similarly styled as public ways signs, yet shall be white or silver letters on a blue background. As much as possible, signs should conform to standards adopted by the Federal Highway Administration and the Maine Department of Transportation. The Road Commissioner is responsible for procurement, installation and maintenance of street signs.

Section 7: New Developments and Subdivisions

All new developments and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

a. New Developments. Whenever any residence or structure is constructed or developed, it shall be the duty of the new owner to procure an assigned number from the Code Enf. Off. This shall be done at the time of the issuance of the building permit.

b. New Subdivisions. Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submitted to the Planning Board. Approval by the Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of streets every 50 (fifty) feet so as to aid in assignment of numbers to structures subsequently constructed.

Section 8: Master Street Address Guide (MAG)

The Town of Dayton shall provide the Emergency Services Communication Bureau with a listing of road names, number ranges, emergency service zones, accurate physical addresses for all of its residents, and all coin operated telephones in Dayton. This information will be used to establish a Master Street Address Guide (MAG) for the purpose of routing 911 emergency telephone calls to the appropriate public safety answering point. After establishment of the MAG the Town of Dayton shall continue to verify the accuracy of the routing information contained in the MAG and advise the Emergency services Communications Bureau of any changes in road names, the establishment of new roads, changes in address numbers used on existing roads, closing and abandonment of roads, changes in police, fire and emergency medical service or other appropriate agencies, jurisdiction over any address, annexations and any other changes to municipal boundaries or any other matter that will affect the routing of 911 emergency calls.

Section 9: Municipal Address Coordinator

The Board of Selectmen shall appoint an individual to serve as Municipal Address Coordinator for all issues involving the development and maintenance of the Master Street Addressing Guide. The Municipal Address Coordinator shall maintain liaison with the Emergency Services Communications Bureau and all emergency service providers, serving the Town of Dayton.

Section 10: Effective Date

This ordinance shall become effective at start of the 1998 year. . It shall be the duty of the Town of Dayton to notify by mail each owner and the Post Office of the new address within thirty days of the effective date of this ordinance. It shall be the duty of each property owner to comply with this ordinance within 30 (thirty) days of notification. on new structures, numbering will be installed prior to its first use or occupancy.

An Ordinance to Regulate Street Vendors

Section I. Purposes.

The Inhabitants of the Town of Dayton find that the streets, ways and public places of the town exist for the use and benefit of the general public, that no person enjoys an inherent right to use these streets, public ways and other public areas as a place of business, and that the privilege of doing so must be regulated in order to promote traffic safety, visual character of the Town and the general health, safety and welfare of the community. The Dayton Zoning Ordinance regulates the use of private property but has no control over the use of streets and ways. This ordinance is enacted to establish a licensing system whereby, the streets, public ways and other public areas of the Town of Dayton may continue to be available as a place of business, but in such a manner as to not become a public nuisance.

Section II. License Required

No person shall engage in any street vending business without obtaining a license from the Municipal Officers. The license required by this section shall be in addition to any other license which may be required by municipal ordinance or state statute.

Section III Definitions.

Words and terms in this ordinance shall have their common meaning, except words or terms that are defined in the Dayton Zoning Ordinance shall have the meaning given in that ordinance, and words or terms defined below shall have the following meaning.

Street Vending Business - the business of selling or causing to be sold, displaying for sale, distributing samples of or demonstrating goods or services of any kind whatsoever, or soliciting orders for the future sale or delivery of the same in the streets, public ways or public places of the Town of Dayton, but does not include

1. businesses which transport passengers for hire;
2. businesses which perform emergency ambulance or motor vehicle repair or towing services;
3. any business insofar as it uses the streets, ways or public places for the transportation or delivery of goods or services to destinations not in the streets, ways, and public places; and
4. businesses conducted on public property pursuant to leases from, or contracts or agreements with the Town of Dayton;

Street Vendor - any person who engages in any street vending business.

Streets, Ways, and Public Places - The entire width between the property lines of every town way or ~~or~~ state highway and all grounds and parks owned by the Town of Dayton.

Section IV. Applications

Applications shall be made in writing on forms provided by the town for this purpose. The application shall include the name, full mailing address and telephone number of the applicant; the name, full mailing address and telephone number of the business; the precise nature of the proposed business indicating the types of goods and services proposed to be sold or offered for sale; a description of the equipment, including motor vehicles, proposed to be used in the business; the proposed location(s) of the business; and the hours of operation, including the months of the year, the days of the week and time of day.

Section V. Review Procedure.

Applications shall be submitted to the office of the Town Clerk by mail or in person during regular business hours. The applicant shall notify the owners of property within 500 feet of the proposed location that an application will be submitted and provide proof of notification with the application. The Clerk shall indicate the date the application is received on the application and forward the application to the Municipal Officers for review. Within fifteen days of receipt of the application, the Municipal Officers shall notify the applicant of the time and place the Municipal Officers will review the application. Within twenty-one days of receipt of the application, the Municipal Officers shall, review the application and make a determination whether the standards of Section VI are met. Upon finding that the standards of Section VI are met, the Municipal Officers shall issue the permit. Upon finding that the standards of Section VI are not met, the Municipal Officers shall prepare written findings of fact and either issue the permit with conditions or deny the application. All conditions or approval or denials shall be in writing and indicate the reasons.

Section VI. Standards of Approval and Operation.

In determining whether a license shall be issued, the Municipal Officers shall exercise the discretion vested by this ordinance by resolving all questions in favor of the public health, safety, welfare, and convenience. In so doing they shall consider all relevant factors. Any street vending business in the Town of Dayton shall meet the following standards.

A. Unless operated from a moving motor vehicle, such as an ice cream truck for example, the street vending business shall not have any vehicles or equipment parked, placed or located within ten feet of the paving of any street.

B. Adequate room for parking of customers' motor vehicles shall not be closer than ten feet of the paving of any street.

C. All signs not attached to and part of a registered motor vehicle shall conform to the provisions of the Maine Traveler Information Services Act, (Title 23, MRSA, Section 1914).

D. No street vending business shall be located within 100 feet of the intersection of two public ways.

E. No street vending business shall be conducted on the premises of a public school, except those related to activities authorized by the town.

F. No license shall be issued to any person whose street vendor's license was revoked within the three years preceding any application.

Section VII. Enforcement

This ordinance shall be enforced by the Code Enforcement Officer, established by the Dayton Zoning Ordinance. The Code Enforcement Officer shall follow the enforcement procedures of the Dayton Zoning Ordinance. If the Code Enforcement Officer finds that the holder of a license is in violation of the provisions or conditions of approval of the license, the Code Enforcement Officer shall order the violation to cease and notify the Municipal Officers. Within fourteen days of notification from the Code Enforcement Officer, the Municipal Officers shall hold a hearing. The license holder shall be notified in writing no less than seven days prior to the hearing. Upon a finding that a violation continues, the Municipal Officers shall revoke the license.

Section VIII. Appeals.

An aggrieved applicant or an aggrieved owner of property within 500 feet of the proposed location of a stationary street vending business may appeal the decision of the Municipal Officers to York County Superior Court within 30 days of the decision in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Section IX. Legal Provisions

A. This Ordinance is enacted under the home rule authority of the Maine Constitution and Title 30-A MRSA, Section 3001.

B. Any person who violates any provision of this ordinance shall be punished in accordance with Title 30-A MRSA, Section 4452.

C. The provisions of this ordinance are declared to be severable and if any section, sentence, clause, or phrase of this ordinance shall for any reason be held to invalid or constitutional, such decision shall not affect the validity of the remaining portions of this ordinance, but they shall remain in effect.

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ARTICLE 1 PURPOSES

The purposes of these regulations are to assure the comfort, convenience, safety, health and welfare of the people, of the Town of Dayton, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Dayton, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of Title 30, M.R.S.A. §4956, subsection 3. The subdivision:

- 1.1. Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to the flood plains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents;
- 1.2. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- 1.3. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- 1.4. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- 1.5. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- 1.6. Will provide for adequate solid and sewage waste disposal;
- 1.7. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
- 1.8. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas; and
- 1.9. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any.
- 1.10. The subdivider has adequate financial and technical capacity to meet the above stated standards.
- 1.11. Whenever situated in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water.
- 1.12. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

ARTICLE II AUTHORITY AND ADMINISTRATION

2.1. Authority

- A. These standards have been prepared in accordance with the provisions of Title 30 M.R.S.A., §4956, Subsection 2.
- B. These standards shall be known and may be cited as "Subdivision Regulations of the Town of Dayton, Maine."

2.2. Administration

- A. The Planning Board of the Town of Dayton, hereinafter called the Board, shall administer these standards.
- B. The provisions of these standards shall pertain to all land proposed for subdivision, as defined in Title 30 M.R.S.A., §4956, Subsection 1, within the boundaries of the Town of Dayton.

ARTICLE III DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space owned in common by lot/unit owners, the Town, or a land conservation organization. Clustering shall not be used to increase the overall net residential density of the development.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations for a Final Plan, or by a vote by the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.

Comprehensive Plan or Policy Statement: Any part or element of the overall plan or policy for development of the municipality as defined in Title 30 M.R.S.A., Section 4961.

Contiguous Lots: Lots which adjoin at any line, or are separated at any point by a body of water less than fifteen feet wide.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, etc.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

High Intensity Soil Survey: A high intensity soil survey shall be conducted by a Certified Soil Scientist and meet the standards of the National Cooperative Soil Survey which identifies soil types down to 1/10 acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation shall not be considered to constitute high intensity soil surveys.

100 Year Flood: The highest level of flood that, on the average, is likely to occur once every 100 years (that has a one percent chance of occurring in any year).

Normal High Water Elevation of Coastal Waters: The elevations at which vegetation changes from predominantly salt tolerant to predominantly non-salt tolerant. By way of illustration, salt tolerant vegetation includes, but is not limited to: salt marsh grass, salt meadow hay, black arrowgrass, seaside lavender, silverweed, salt marsh bullrush, seaside plattain, orach, salt marsh sedge, salt marsh aster. In places where vegetation is not present, the high water elevation shall be the identifiable debris line left by non-storm tidal action. On a sand dune, the high water elevation shall be the mean seaward limit of salt tolerant vegetation.

Normal High Water Elevation of Inland Waters: That line on the shores of banks on nontidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: Water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster lady slipper, wintergreen, partridge berry, sassaparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined, (rockslides, ledges, rapidly eroding or slumping banks) the normal high water elevation shall be estimated from places where it can be determined by the above method.

Industrial park or Development: A subdivision in area zoned exclusively for industrial uses, subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

Living Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

Net Residential Acreage: The total acreage available for the subdivision minus the area for streets or access and the areas which are unsuitable for development as outlined in Section 10.3.

Net Residential Density: The average number of dwelling units per net residential acre.

Official Submittal Date: The date upon which the Board issues a receipt indicating a complete application has been submitted.

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Planned Unit Development: A development controlled by a single developer for a mix of residential, commercial, and industrial uses. A PUD is undertaken in a manner that treat the developed area in its entirety to promote the best use of land, including the creation of open space, a reduction in the length of road and utility systems, and the retention of the natural characteristics of the land.

Planning Board: The Planning Board of the Town of Dayton, created under Title 30 M.R.S.A., §4952 (or §1917).

Preliminary Subdivision Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

Recording Plan: A copy of the Final Plan which is recorded at the Registry of Deeds and which need not show information not relevant to the transfer of an interest in the property, such as sewer and water line locations and sizes, culverts, and building lines.

Resubdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which effects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

Solar Collector: A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes to a building's energy supply.

Solar Energy System: A complete design or assembly consisting of a solar energy collector, an energy storage facility (when used), and components for the distribution of transformed energy.

Street: Public and private ways such as alleys, avenues, boulevards, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way.

Street classification:

Arterial street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets.

Collector Street: A street servicing at least fifteen residential units, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

Minor Street: A street servicing less than fifteen residential units.

Industrial or Commercial Street: Streets servicing industrial or commercial uses.

Subdivision: The division of a tract or parcel of land into three or more lots within any five-year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings, or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood marriage or adoption, unless the intent of such gift is to avoid the objectives of these regulations, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of these regulations.

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two lots and the next dividing of either of said first two lots, by whom ever accomplished, unless otherwise exempted herein, shall be considered to create the third lot, unless both such dividings are accomplished by a subdivider who shall have retained one of such lots for his own use as a (single family residence for a period of at least five years prior to such second dividing.) Lots of forty or more acres shall not be counted as lots.

For the purposes of these regulations, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands 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.

Subdivision, Major: Any subdivision containing more than four lots or living units, or any subdivision containing a proposed street.

Subdivision, Minor: Any subdivision containing not more than four lots or living units, and in which no street is proposed to be constructed.

Tract, or Parcel, of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting land owners.

ARTICLE IV ADMINISTRATIVE PROCEDURE

- 4.1 Purpose. The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.
- 4.2 Agenda. In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least ~~one~~ ^{two} weeks in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.

TWO WEEKS

ARTICLE V PREAPPLICATION

5.1 Procedure.

A. Applicant presentation and submission of sketch plans.

B. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.

C. Scheduling of on-site inspection.

5.2 Submission. The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand pencilled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than ten acres in size.

5.3 Contour Interval and On-Site Inspection. Within thirty days, the Board shall determine and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision, and hold an on-site inspection of the property.

5.4 Rights not Vested. The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A. §302.

ARTICLE VI MINOR SUBDIVISIONS

6.1 General. The Board may require, where it deems it necessary for the protection of public health, safety, and welfare, that a Minor Subdivision comply with all or any of the submission requirements for a Major Subdivision.

6.2 Procedure.

- A. Within six months after the on-site inspection by the Board, the sub-divider shall submit an application for approval of a Final Plan at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for Final Plan approval for a Minor Subdivision shall be accompanied by a non-refundable application fee of \$150 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of \$50 per lot or dwelling unit to be deposited in a special account designated for that subdivision application to be used by the Board for hiring independent consulting services to review the application. The Board shall continue to notify the applicant and require additional funding, if necessary. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. If a public hearing and site inspection are deemed necessary by the Board, an additional fee shall be required to cover the additional costs of advertising and postal notification.
- C. ~~The sub-divider shall certify to the Board that all owners of abutting property have been notified that an application for subdivision approval has been submitted to the Board.~~
- D. The sub-divider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the sub-divider. The Board shall determine whether to hold a public hearing on the Final Plan application.
- F. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.
- G. Within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the sub-divider, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

- 6.3 Submissions. The subdivision plan for a Minor Subdivision shall consist of one reproducible, stable based transparent original to be recorded at the Registry of Deeds, and seven copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than seventy-five acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the borderlines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the plan shall be submitted.

The application for approval of a Minor Subdivision shall include the following information:

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
2. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
3. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
4. A copy of any deed restrictions intended to cover all or part of the lots in the subdivision.
5. Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses, by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
6. The date the Plan was prepared, north point, graphic map scale, names and addresses of the record owner, sub-divider, and individual or company who prepared the plan, and the names of adjoining property owners.
7. A copy of the portion of the county Soil Survey covering the subdivision.
8. Contour lines at the interval specified by the Planning Board, showing elevations in relation to NGVD.

ARTICLE VII PRELIMINARY PLAN FOR MAJOR SUBDIVISION

7.1 Procedure.

- A. Within six months after the on-site inspection by the Board, the sub-divider shall submit an application for approval of a Preliminary Plan at least ~~seven~~ ^{ten} days prior to a scheduled meeting of the Board. Failure to do so shall require re-submission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee of \$150 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of \$50 per lot or dwelling unit to be deposited in a special account designated for that subdivision application to be used by the Board for hiring independent consulting services to review the application. The Board shall continue to notify the applicant and require additional funding, if necessary. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. If a public hearing and site inspection are deemed necessary by the Board, an additional fee shall be required to cover the additional costs of advertising and postal notification.
- C. The sub-divider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.
- D. The sub-divider shall certify to the Board that all owners of abutting property have been notified that an application for subdivision approval has been submitted to the Board.
- E. Within thirty days of receipt of Preliminary Plan application form and fee, the Board shall notify the applicant in writing, if the application is complete, of what additional submission are required for a complete application.
- F. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.
- G. The Board shall, within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the sub-divider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- H. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
 - 1. The specific changes which it will require in the Final Plan.

2. The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and
 3. The amount of improvements or the amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan;
- I. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the sub-division or as a result of new information received.

7.2 Submissions.

A. Location Map. The Preliminary Plan shall be accompanied by a Location Map drawn to a scale adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:

1. Existing subdivisions in the proximity of the proposed subdivision.
2. Locations and names of existing and proposed streets.
3. Boundaries and designations of zoning districts.
4. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire holding.

B. Preliminary Plan. The preliminary Plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than one hundred feet to the inch. The Board may allow plans for subdivisions containing more than seventy-five acres to be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. In addition, one copy of the Plan shall be mailed to each Board member no less than seven days prior to the meeting. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Assessor's Map and Lot numbers.
2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
3. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
4. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
5. Contour lines at the interval specified by the Planning Board, showing elevations in relation to N.G.M.D.
6. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features.
7. Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits on the site shall be submitted.
8. The date the Plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.
9. The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.
10. The location of any zoning boundaries affecting the subdivision.

11. The location and size of existing and proposed culverts, and drainage ways on or adjacent to the property to be subdivided.
12. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
13. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
14. The proposed lot lines with approximate dimensions and lot areas.
15. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
16. The location of any open space to be preserved and an indication of its improvement and management.
17. A soil erosion and sedimentation control plan endorsed by the County Soil and Water Conservation District.
18. A plan for the disposal of surface drainage waters, prepared by a Registered Professional Engineer.
19. A copy of that portion of the County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a report by a Registered Soil Scientist indicating the suitability of soil conditions for those uses.

8.1 Procedure.

A. The subdivider shall, within six months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan, and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.

B. All applications for Final Plan approval for Major Subdivision shall be accompanied by an application fee of \$20.00 per lot or dwelling unit payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

C. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

D. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.

E. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:

1. Maine Department of Environmental Protection, under the Site Location of Development Act, Alteration of Coastal Wetlands Act, Great Ponds Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.
2. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.

F. A public hearing may be held by the Planning Board within thirty days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing.

When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten days prior to the hearing.

G. Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Article XII.

H. If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the Plan.

I. The Board, within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, shall make findings of fact, and conclusions relative to the standards contained in Title 30, M.R.S.A. §4956, subsection 3 and in these regulations. If the Board finds that all standards of the Statute and these regulations have been

met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute and these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

8.2. Submissions.

A. The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than seventy-five acres may be drawn at a scale of not more than two hundred feet to the inch. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. One reproducible, stable based transparent original, to be recorded at the Registry of Deeds, and seven copies of the plan shall be submitted.. In addition, one copy of the Final Plan and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

The application for approval of the Final Plan shall include the following information.

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
3. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
4. Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sewer District indicating the District has reviewed and approved the sewerage design shall be submitted.
5. Indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by private wells evidence of adequate ground water supply and quality shall be submitted by a written statement from either a well driller or a hydrogeologist familiar with the area.
6. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.
7. The location of any zoning boundaries affecting the subdivision.
8. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
9. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included.
10. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.

11. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included.

12. A list of the construction items that will be completed by the developer prior to the sale of lots, and a list of construction and maintenance items that must be borne by the municipality shall be submitted. These lists shall include, but not be limited to such items as solid waste disposal, drainage ways, storm sewers, and streets. The Board may further require the applicant to provide accurate cost estimates to the municipality for the above services and the expected tax revenue of the subdivision.

8.3 Final Approval and Filing.

A. No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plan.

B. Upon findings of fact and determination that all standards in Title 30, M.R.S.A. §4956, subsection 3, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.

+ C. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan.

D. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Section 9.1.3. The Board shall make findings that the revised plan meets the standards of Title 30, M.R.S.A. §4956, subsection 3, and these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

ARTICLE IX ENFORCEMENT

9.1 Inspection of Required Improvements.

- A. At least five days prior to commencing construction of required improvements, the sub-divider or builder shall:
 - 1. Notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements, so that the Municipal Officers arrange for inspections by a professional, licensed engineer registered by the State of Maine, shall be hired by the Town of Dayton, paid for by the developer to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
 - 2. Deposit with the municipal officers a check for the amount of 7% of the written estimated costs. Two (2) written estimates are required. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the sub-divider or builder as appropriate. If the inspection account shall be drawn down by 90%, the sub-divider or builder shall deposit an additional 3% of the estimated costs of the required improvements.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the sub-divider, the inspecting official shall so report in writing to the Municipal Officers, Planning Board, and the sub-divider and builder. The Municipal Officers shall take any steps necessary to preserve and assure compliance with the approved plans.
- C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the sub-divider shall obtain permission from the Board to modify the plans.

- D. At the close of each summer construction season the Town shall, at the expense of the sub-divider, have the site inspected by a professional engineer registered in the State of Maine. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems, which were encountered.
- E. Prior to the sale of any lot, the sub-divider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.
- G. The sub-divider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality.

9.2 Violations and Enforcement.

- A. No plan of a division of land within the municipality, which would constitute a subdivision, shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with these regulations.
- B. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in an approved subdivision, which is not shown, on the Final Plan as a separate lot.
- D. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2500 for each such conveyance, offering or agreement. The Municipality may institute proceedings to enjoin the violation of this section, and may collect attorneys' fees and court costs if the prevailing party.

- E. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- F. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings, which require a Final Plan approved as provided in these regulations and recorded in the Registry of Deeds.
- G. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. NO unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

ARTICLE X GENERAL STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant.

10.1 Conformance with Comprehensive Plan. All proposed subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.

10.2 Retention of Open Spaces and Natural or Historic Features.

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A. In any subdivision larger than thirty-five acres, or more than twenty lots or dwelling units, the developer shall provide up to ten percent of his total area as open space. In any subdivision thirty-five acres or less, or containing twenty lots or dwelling units or less, the Board may request the developer to provide up to ten percent of his total area as open space. They may instead make a payment in-lieu-of dedication into municipal land acquisition fund.

B. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of a least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.

C. Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.

D. Land reservation shall be calculated on a basis of 1300 sq. ft. per dwelling unit proposed, or three acres per 100 dwelling units. Where land is not suitable or is insufficient in amount, a payment-in-lieu of dedication shall be calculated at the market value of land at the time of the subdivision, as determined by the municipal tax assessor, and deposited into a municipal land acquisition or improvement fund.

E. The Board may require that the development plans include a landscape plan that will show the preservation of any existing trees larger than 24" in diameter at breast height, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer.

10.3 Lots.

A. All lots shall meet the minimum requirements of the Zoning Ordinance for the zoning district in which they are located. The lot configuration should be designed to maximize the use of solar energy on building sites with suitable orientation.

B. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.

C. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.

D. Wherever possible, side lot lines shall be perpendicular to the street.

E. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future resubdivision. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.

F. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.

G. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. The ratio of lot length to width shall not be more than three to one.

H. Lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the Postmaster and his comments considered by the Board.

10.4 Required Improvements. The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of these regulations.

A. Monuments.

1. Stone monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.

2. Stone monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.

3. Stone monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill holes, ½ inch deep shall locate the point or points described above.

4. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation.

B. Water Supply.

1. The Planning Board may allow the use of individual wells or a private community water system.

a. Dug wells shall be permitted only if it is demonstrated to be not economically feasible to develop other ground water sources, and shall be constructed so as to prevent infiltration of surface water into the well. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.

b. If a central water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system and shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144 A.C.M.R. 231).

c. The subdivider shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to the dry hydrants where necessary. The Board may waive the requirement for fire ponds only upon submittal of evidence that the soil types in the subdivision will not permit their construction.

C. Sewage Disposal.

Private Systems.

a. The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Plumbing Rules. In addition, test pit information shall be submitted indicating a suitable reserve area of soil for each lot.

b. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance from the Plumbing Rules.

D. Surface Drainage.

1. Where a subdivision is traversed by a stream, river, or surface water drainageway, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channelling surface water within the subdivision and over other properties. This stormwater management system shall be designed by a Registered Professional Engineer.

2. Drainage easements for existing water-courses or proposed drainage ways shall be provided and indicated on the plan at least thirty feet wide, conforming substantially with the lines of existing natural drainage.

3. The developer shall provide a statement from the designing engineer that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or in other properties. Where the peak runoff from the subdivision onto other properties is increased either in volume or duration, easements from the abutting property owners, allowing such additional discharge shall be obtained.

4. A storm water drainage plan, showing ditching, culverts, storm drains, easements, and other proposed improvements, meeting the standards of Section 11.4, shall be submitted.

10.5 Land Features.

A. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

B. Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Board shall require a developer to take measures to correct and prevent soil erosion in the proposed subdivision.

C. To prevent soil erosion of shoreline areas, tree cutting in a strip paralleling the shoreline of a waterbody, and extending one hundred feet inland from all points along the normal high water mark shall be limited in accordance with the following:

1. No more than 30% of the length of the strip shall be clear-cut to the depth of the strip.
2. Cutting of this 30% shall not create a clear-cut opening greater than thirty feet wide.

3. In the remaining 70% length of the strip, no trees larger than four inches diameter at breast height shall be cut, and sufficient cover to preserve natural beauty and control erosion shall remain.

10.6 Cluster Developments.

A. Purpose

The purpose of these provisions is to allow for innovative concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the Zoning District in which the development is proposed. To this end, the layout, and dimensional requirements of the Zoning Ordinance may be altered without restriction except height limitations.

B. Basic Requirements.

1. All the requirements and standards of these regulations, except those dealing with lot layout and dimensions shall be met.
2. The minimum area of land in a cluster development shall be ¹⁰~~9~~ acres.
3. The plan shall indicate the location of all proposed roads, structures, parking areas, footpaths and common open space.
4. No building shall be constructed on soil types classified by the S.C.S. as being poorly or very poorly drained.
5. Where a cluster development abuts a waterbody, a portion of the shoreline, as well as reasonable access to it, shall be part of the common land.
6. In cluster developments with individual lot sizes of 20,000 sq. ft. or less, all dwelling units shall be connected to a common water supply and distribution system, either public or private.
7. In cluster developments with individual lot sizes of 20,000 sq. ft. or less, all dwelling units shall be connected to a public sewer system or to a central collection and treatment system.
8. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south-facing slopes, and natural drainage areas, in accordance with an overall plan for site development and landscaping.

10.7 Dedication and Maintenance of Common Open Space and Services.

1. All common land shall be owned jointly or in common by the owners of the dwelling units by means of a home-owners association, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the municipality.
2. Further subdivision of the common land or its use for other than non-commercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land.
3. The common open space shall be shown on the Final Plan with appropriate notation on the plan to indicate that:
 - a. It shall not be used for future building lots; and

- b. A part or all of the common open space may be dedicated for acceptance by the municipality.
4. If any or all of the common open space and services are to be reserved for use by the residents, the by-laws of the proposed neighborhood association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.
5. Covenants for mandatory membership in the neighborhood association setting forth the owners' rights, interests, and privileges in the association and the common property, shall be reviewed by the Board and included in the deed for each lot or dwelling.
6. The neighborhood association shall have the responsibility of maintaining the common property.
7. The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.
8. The developer or subdivider shall maintain control of the common property, and be responsible for their maintenance until development sufficient to support the association has taken place.

11.1 General Requirements.

A. The Board shall not approve any subdivision plan unless proposed streets and storm water management systems are designed and constructed in accordance with any local ordinance or the specifications contained in these regulations. Approval of the Final Plan by the Board, shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

B. Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets. The plans shall include the following information:

1. Date, scale, and magnetic or true north point.
2. Intersections of the proposed street with existing streets.
3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
5. Complete curve data shall be indicated for all horizontal and vertical curves.
6. Turning radii at all intersections.
7. Centerline gradients.
8. Locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.

C. Upon receipt of plans for a proposed public street the Board shall forward one copy to the Municipal Officers, the Road Commissioner, and the Municipal Engineer for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the Municipal Engineer for review and comment.

11.2 Street Design Standards.

A. These design standards shall be met by all streets within subdivisions, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.

B. Streets shall be designed to discourage through traffic within a residential subdivision.

C. The character, extent, width, and grade of all streets shall be considered in their relation to existing or planned streets.

D. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the municipality.

E. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the Zoning Ordinance. When such

widening or realignment is indicated on the Official Map, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.

F. Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly on to the arterial street. This requirement shall be noted on the Plan and in the deeds of any lot with frontage on the arterial street.

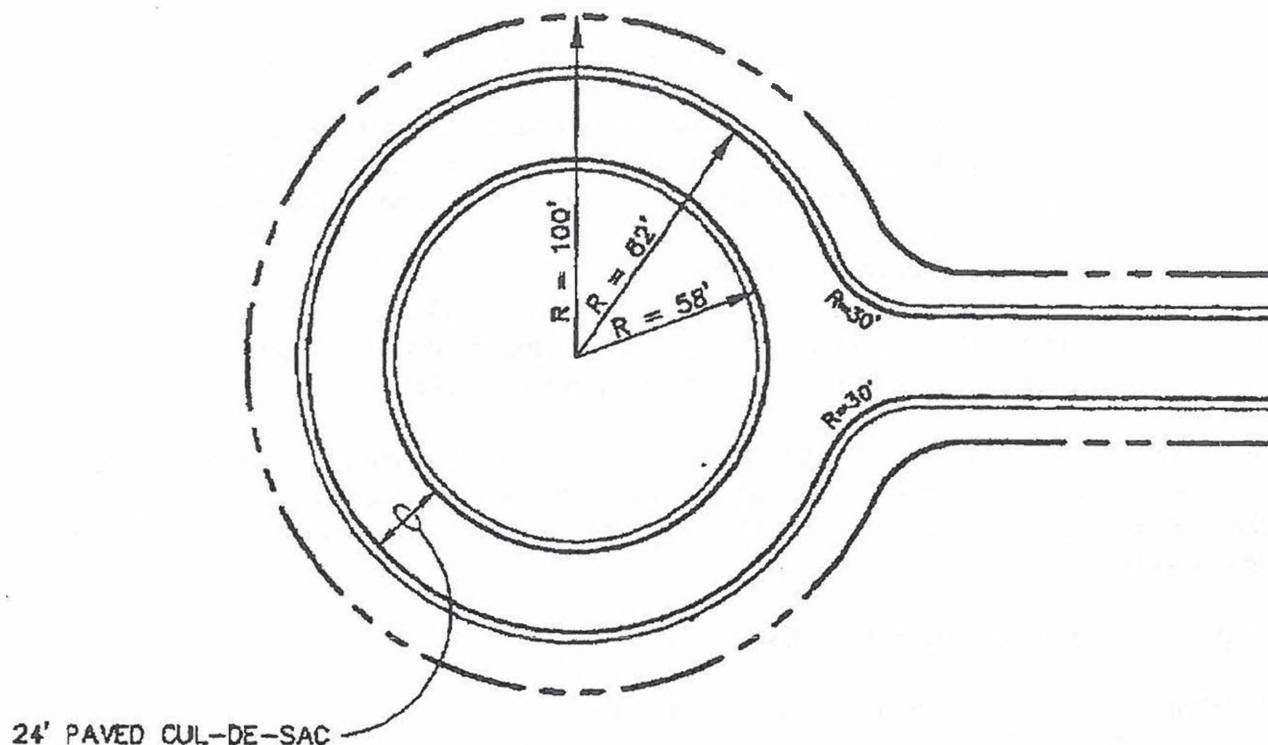
G. Any subdivision containing fifteen lots or more shall have at least two street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street within a subdivision serving fifteen lots or more shall have at least two street connections leading to existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.

H. The following design standards apply according to street classification:

<u>Description</u>	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Industrial/Commercial</u>
Minimum Right-of-way Width	66'	50'	50'	80'
Minimum Pavement Width	30'	24'	20'	44'
Sidewalk Width	5'	5'	5'	8'
Minimum Grade	.5%	.5%	.5%	.5%
Minimum Grade	5%	6%	6%	5%
Minimum Centerline Radius	800'	230'	150'	800'
Minimum Tangent between curves of reverse alignment	300'	200'	100'	300'
Roadway Crown	¼"	¼"	¼"	¼"
Minimum angle of street intersections	90°	90°	90°	90°
Maximum grade within 75 ft. of intersection	2%	2%	2%	2%
Minimum curb radii at intersections	30'	20'	15'	30'
Minimum r/o/w radii at intersections	20'	10'	10'	20'
Minimum width of shoulders (each side)	3'	3'	3'	9'

I. The centerline of the roadway shall be the centerline of the right-of-way.

J. Dead End Streets. In addition to the design standards above, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Property line 100 ft.; outer edge of pavement 82 ft.; inner edge of pavement 58 ft. The Board may also require the reservation of a twenty foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a fifty foot easement in line with the street to provide continuation of the road where future subdivision is possible. The inner circle of the cul-de-sac to be open space maintained by the Homeowner's Association in a vegetative state.



K. Grades, Intersections, and Sight distances.

1. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
2. All changes in grade shall be connected by vertical curves to provide for the minimum sight distances below.
3. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below.

Posted Speed Limit (mph)	25	30	35	40	45	50	50
Sight Distance	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

4. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of two hundred feet shall be maintained between centerlines of offset side streets.

L. Sidewalks. Where installed, sidewalks shall meet these minimum requirements.

1. Bituminous Sidewalks.

- a. The Gravel aggregate sub-base course shall be no less than ten inches thick.
- b. The crushed aggregate base course shall be no less than two inches thick.
- c. The hot bituminous pavement surface course shall be no less than two inches after compaction.

2. Portland Cement Concrete Sidewalks.

- a. The sand base shall be no less than six inches thick.
- b. The Portland Cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

M. Where installed, curbing shall be granite or bituminous concrete and shall be installed on a thoroughly compacted gravel base of six inches minimum thickness, except bituminous curbing shall be installed on the base course of the pavement. The specified pavement width above shall be measured between the curbs.

11.3 Street Construction Standards.

A. Minimum thickness of material after compaction:

<u>Street Materials</u>	<u>Minimum Requirements</u>			
	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Industrial/Commercial</u>
Aggregate Sub-base Course (Max. sized stone 4")	18"	18"	18"	18"
Crushed Aggregate Base Course	4"	3"	3"	4"
Hot Bituminous Pavement				
Total Thickness	3 1/4"	2 1/2"	2 1/2"	3"
Surface Course	1 1/2"	3/4"	3/4"	1 1/4"
Base Course	1 3/4"	1 3/4"	1 3/4"	1 3/4"

B. Preparation.

1. Before any clearing has started on the right of way, the centerline and side, lines of the new road shall be staked or flagged at fifty-foot intervals.
2. Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush, and other objectionable material. All ledge, large boulders, and tree stumps shall be removed from the right-of-way.

3. All organic materials shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the Town Engineer as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below.

4. Side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, limed, fertilized, and seeded according the specifications of the erosion and sedimentation control plan.

5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

C. Bases and Pavement.

1. Bases.

a. The Aggregate Sub-Base Course shall contain no particles of rock exceeding four inches in any dimension.

b. The Crushed Aggregate Base Course shall contain no particles of rock that will not pass a two inch square sieve.

2. Pavement Joints. Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

3. Curbs and Gutters.

a. Street curbs and gutters shall be installed as required by the Board.

b. Curbs shall be vertical except when sloped curbs are specifically allowed by the Board.

4. Pavements.

a. Minimum standards for the base layer of pavement shall be the M.D.O.T. specifications for plant mix grade B with an aggregate size no more than 1 inch maximum.

b. Minimum standards for the surface layer of pavement shall meet the M.D.O.T. specifications for plant mix grade C with an aggregate size no more than 3/4 inch maximum.

11.4 Storm Water Management Design Standards.

A. Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrain, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.

1. All components of the storm water management system shall be designed to meet the criteria of a twenty-five year storm based on rainfall data for Portland, Maine.

2. The minimum pipe size for any storm drainage pipe shall be twelve inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.

3. Catch basins shall be installed where necessary and located at the curb line.

4. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.

B. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.

C. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

D. Wherever the storm drainage system is not within the right-of-way of public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.

E. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

11.5 Storm Drainage Construction Standards.

A. Materials.

1. Reinforced Concrete Pipe. Reinforced Concrete Pipe shall meet the requirements of ASIM Designation C-76 (AASHTO M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASIM Designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek". Perforated Concrete Pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.

2. Asbestos Cement Pipe. Asbestos Cement Pipe shall meet the requirements of ASIM Designation C-428 (AASHTO M 189). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.5 on the crushing strength. Joints shall be of the rubber gasket type meeting ASIM Designation D-1869-63, or of an approved preformed plastic sleeve type.

3. Corrugated Metal Pipe. Corrugated Metal Pipe shall be bituminous coated meeting the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.

4. ABS Pipe. ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings shall conform to the requirements of AASHTO M 264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type III.

5 Corrugated Plastic Pipe. Corrugated Plastic Pipe shall conform to the requirements of AASHTO M 252.

6. Manholes. Manholes shall be of precast concrete truncated cone section construction meeting the requirements of ASIM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASIM Designation C 139, radial type. Bases may be cast in place 3,000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M105, Class 30 for gray iron castings or AASHTO M 183 (ASIM A 283, Grade B or better) for structural steel.

7. Catch Basins. Catch Basins shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Castings shall be square cast iron sized for the particular inlet condition with the gratings perpendicular to the curb line. Bases may be cast in place 3,000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

B. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Municipal Engineer.

C. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.

D. Upon completion each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

11.6 Additional Improvements and Requirements.

A. Erosion Control. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

B. Cleanup. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If onsite disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

C. Street Names, Signs and Lighting. Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the Municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street name, traffic safety and control signs. Street lighting shall be installed as approved by the Board.

11.7 Certification of construction. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a professional engineer registered in the State of Maine *and the town and commissioners* shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of these regulations.

ARTICLE XII PERFORMANCE GUARANTEES

12.1 Types of Guarantees. With submittal of the application for Final Plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs.

A. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;

B. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers, or Town Manager;

C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers, or Town Manager; or

D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Town Engineer, Road Commissioner, Municipal Officers, and/or Town Attorney.

12.2 Contents of Guarantee. The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

12.3 Escrow Account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the subdivider and the amount withdrawn to complete the required improvements.

12.4 Performance Bond. A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the subdivider, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

12.5 Letter of Credit. An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

12.6 Conditional Agreement. The Board, at its discretion may provide for the subdivider to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that up to four lots may be sold or built upon until either:

A. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities;

B. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

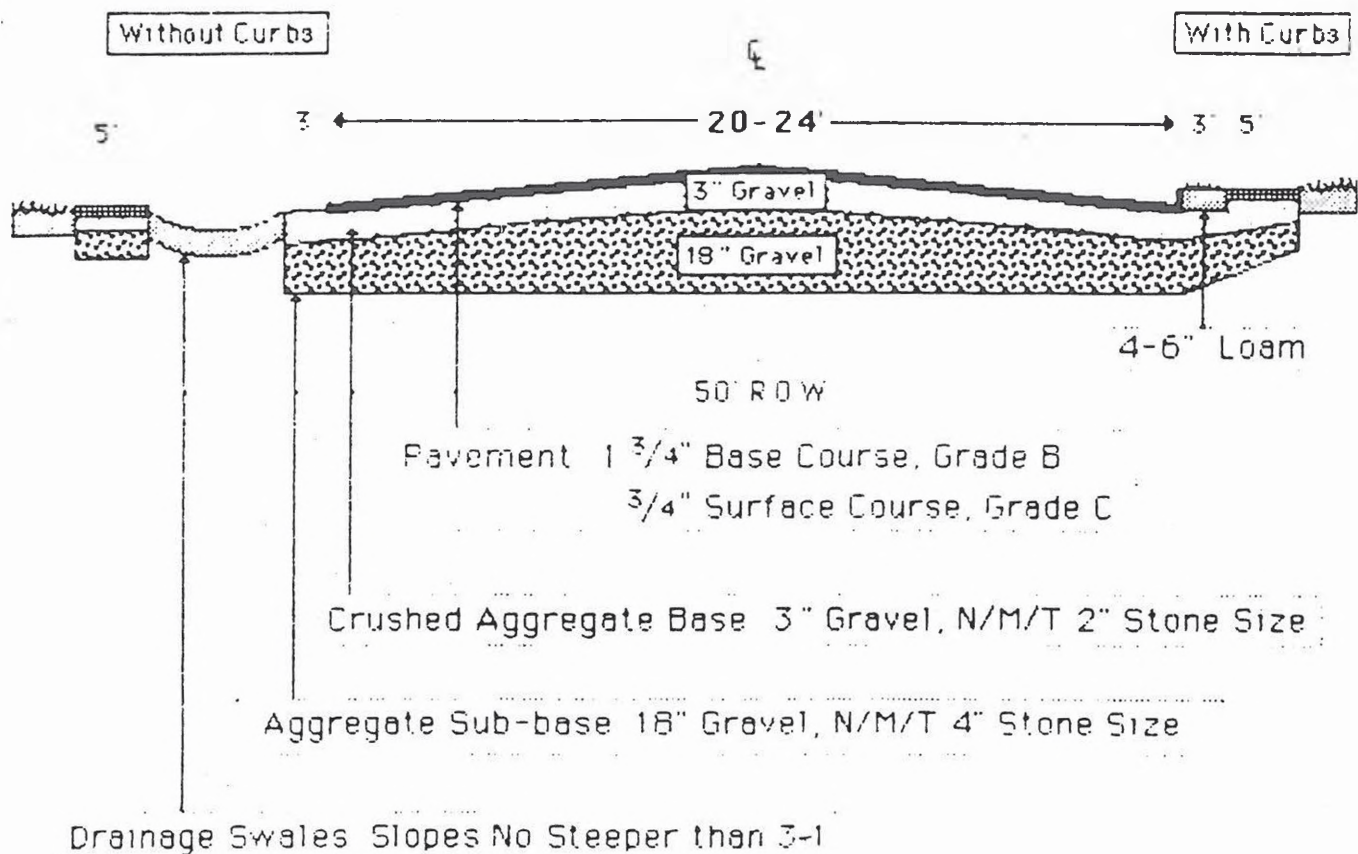
Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 12.8.

- 12.7 Phasing of Development. The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.
- 12.8 Release of guarantee. Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Town Engineer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.
- 12.9 Default. If, upon inspection, the Town engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Code Enforcement Officer, the Municipal officers, the Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.
- 12.10 Private Roads. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan:
- "All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town."
- 12.11 Improvements Guaranteed. Performance guarantees shall be tendered for all improvements required by Section 10.7 of these regulations, as well as any other improvements required by the Board.

ARTICLE XIII - WAIVERS

- 13.1 Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, to permit a more practical and economical development, provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, the Zoning Ordinance, or these regulations.
- 13.2 Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.
- 13.3 In granting waivers to any of these regulations in accordance with Sections 13.1 and 13.2, the Board shall require such conditions as will assure the objectives of these regulations are met.

Typical Street Cross Section



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ZONING ORDINANCE TOWN OF DAYTON, MAINE

ARTICLE I: PREAMBLE

- 1.1 Short Title**
- 1.2 Purposes**
- 1.3 Basic Requirements**
- 1.4 Legal Authority**
- 1.5 Effective Date of Ordinance and Ordinance Amendments**
 - A. Effective Date**
 - B. Amendments**
 - C. Repetitive Petitions**
- 1.6 Availability**
- 1.7 Validity and Severability**
- 1.8 Conflict with Other Ordinances**
- 1.9 Jurisdiction**

1.1 Short Title:

This ordinance, and the accompanying Official Zoning Map, shall be known as and may be cited as the "Zoning Ordinance of the Town of Dayton, Maine," and will be referred to herein as the "Ordinance."

1.2 Purpose:

- A. To promote the general welfare of the town;
- B. To establish a fair and reasonable set of standards for evaluating each development proposal impartially, and on its own merits;
- C. To provide local protection from those particular nuisances which are not governed by State law or regulations;
- D. To help preserve the peaceful rural surroundings which make Dayton an enjoyable place to live;
- E. To balance the right of land-owners to use their land, with the corresponding right of abutting and neighboring land owners to live without undue disturbance from noise, smoke, fumes, dust, odor, glare, traffic, storm water run-off, and other nuisances;
- F. To encourage new development to be integrated harmoniously into the community;
- G. To establish a local appeals system whereby aggrieved parties may appeal decisions of the Dayton Planning Board under this ordinance;

- H. To protect property values;
- I. To reduce the adverse off-site impact of development, thereby decreasing the cost of municipal facilities, maintenance and improvement;
- J. To accomplish the above objectives with the least possible regulation; and,
- K. In addition, in the shoreland zone the purposes of this ordinance are to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerate erosion; to protect archaeological and historic resources; to protect wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to water bodies; to conserve natural beauty and open space; to anticipate and respond to the impacts of development.

1.3 Basic Requirements:

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and uses of premises in the Town of Dayton shall be in conformity with the provisions of this Ordinance. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the District in which such building, structure, land or water area is located.

1.4 Legal Authority:

This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-Part 2 Section 1 of the Maine Constitution, Title 30-A M.R.S.A., and in accordance with the provisions of Title 38. Sections 435-449 of the Maine Revised Statutes Annotated, (M.R.S.A.)

1.5 Effective Date of Ordinance and Ordinance Amendments:

A: Effective Date:

This ordinance shall be known as the “Zoning Ordinance” of the Town of Dayton, Maine adopted and effective by vote of the Town Meeting on June 12, 2007. And amended by Town vote on June 14th 2016. Amendments to this ordinance shall be effective upon their enactment by the Town, except amendments affecting Shoreland Zoning. Copies of amendments affecting the Shoreland Zone, attested and signed by the Municipal Clerk, shall be submitted to the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Department of Environmental Protection. If the Department of Environmental Protection fails to act on any amendment within 45 days of the Department’s receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the 45 day period shall be governed by the terms of the amendment, if such amendment is approved by the Department.

B. Amendments:

This ordinance may be amended by a majority vote of the Town. Amendments may be initiated by a majority vote of the Planning Board, or by request of the Board of Selectmen to the Planning Board, or petition of 10% of the votes cast in the last gubernatorial election in the town. The Planning Board shall conduct a public hearing on any proposed amendment.

C. Repetitive Petitions:

No proposed change in this ordinance which has been unfavorably acted upon by the Governing Body shall be considered on its merits by the Governing Body within two years after the date of such unfavorable action, unless adoption of the proposed change is recommended by the Planning Board.

1.6 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 to the person making the request. Notice of the availability shall be posted.

1.7 Validity and Severability:

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

1.8 Conflict with Other Ordinances:

Whenever the requirements of this ordinance are inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, administered by the Municipality, the more restrictive requirements shall apply.

1.9 Jurisdiction:

The provisions of this ordinance shall govern all land and all structures within the boundaries of the Town of Dayton.

ARTICLE 2: NON-CONFORMANCES

2.1 Purpose

2.2 General

1. Transfer of Ownership
2. Repair and Maintenance

2.3 Non-Conforming Structures

1. Expansions
2. Foundations
- 3 Relocation:
- 4 Reconstruction or Replacement
- 5-Change of use of a Non-Conforming Structure

2.4 Non-Conforming Uses

1. Expansions
2. Resumption Prohibited
3. Change of Use

2.5 Non-Conforming Lots

1. Non-Conforming Lots
2. Contiguous Built Lots
3. Contiguous Lots- Vacant or Partially Built

2.1 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 section.

2.2 General:

1. **Transfer of ownership:** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot subject to the provisions of this ordinance
2. **Repair and Maintenance:** This ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or 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.

2.3 Non-conforming Structures:

1. Expansions:

All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 5.2.

A 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 (a) and (b) below.

- a. Expansion of any portion of a structure within 25 feet 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 nonconformity with the water body, tributary stream or wetland setback requirement. 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 nonconformity with the water body, tributary stream, or wetland setback requirement.
- b. Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 2.3.1.
 - i. The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- c. All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 2.3.1 or Section 2.3.1(a), above.
 - i. For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
 - ii. For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on

January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 2.3.1(b)(i) and Section 2.3.1(c)(i), above.

- iii. In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 2.3.1(b)(i) and Section 2.3.1(c)(i), above.
- d. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

2 Foundations:

Whenever a new, enlarged, or replacement foundation is constructed under a 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 2.3(3) Relocation, below.

3 Relocation:

A 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 to the greatest practical extent 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 (Rules), or that a new system can be installed in compliance with the law and Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to 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. 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 accordance with section 7.25. 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. 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.

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.

- b. 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.

4. Reconstruction or Replacement:

Any non-conforming structure which is located less than the required setback from the normal high water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed regardless of the cause by more than 50% or less of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirements 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. 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 2.3.1 above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total amount of footprint 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. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 3 above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or 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.

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

5. Change of Use of a Non-conforming Structure:

The Use of a 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 a water body, tributary stream or wetland, on the subject or adjacent properties, traffic flow, noise, and natural resources than the existing use.

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

2.4 Non-conforming uses:

The use of land, buildings or structures, lawful at the time of adoption or subsequent amendments of this ordinance, may continue although such use does not conform to the provisions of this ordinance.

1. 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 Section 2.3.1 above.

2. 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. This provision shall not apply to the resumption of use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five year period.

3. 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 2.3.5 above

2.5 Non-conforming Lots:

1. 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 size and shore frontage can be met. Variances relating to setback or other requirements not involving lot size or shore frontage shall be obtained by action of the Board of Appeals.

2. Contiguous Built Lots:

If two or more lots or parcels are in 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) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

3. 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

4. Vested Rights:

Non-conforming use rights cannot arise by the mere filing of a notice of intent to build, an application for required state permits and approvals. Such rights arise when substantial construction of structures and development infrastructure improvements for town approved subdivisions began prior to or within 12 months of the adoption of this ordinance, or in the case of pending applications, when the review process on an application commences. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits, both state and local.

ARTICLE 3 - ESTABLISHMENT OF DISTRICTS

3.1. Zoning Districts

3.2. Location of Districts and the Zoning Map

3.3. Uncertainty of Boundary Location

3.4. Division of Lots by District Boundaries

3.5. Overlay Districts

3.1. Zoning Districts:

To implement the provisions of this ordinance, the Town of Dayton is hereby divided into the following districts:

Village District	(V)
Resource Protection overlay District	(RP)
Shoreland Overlay District	(S)
Saco River Overlay District	
Mixed Use District	(M)
Rural Fields Districts	(Fields)
Rural Forest Districts	(Forrest)
Critical Rural District	(CR)
Commercial/Industrial District	(CI)

3.2 Location of Districts and the Zoning Map:

A. Location of Districts:

Districts are located and bounded as shown on the Official Zoning map, entitled "Zoning Map of Dayton, Maine" dated June 12, 2007 and on file in the office of the Town Clerk. The Official map shall be drawn at a scale of not less than 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map. The official map shall be certified by the attested signature of the Municipal Clerk and chairman of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment. The Shoreland Overlay District boundaries are determined by the terms of the section creating that district, and any delineation of them on the Official Zoning Map shall be for reference only and shall not supercede or modify such boundaries as created in that section.

B. Changes of the Official Zoning Map:

If changes are made in the district boundaries or other matter portrayed on the Official Zoning Map such changes shall be made on the Official Zoning Map within 14 days after the amendment has been adopted together with an entry on the Official Zoning Map as follows:

“On (date) by official action of the Town, the following change(s) was (were) made (insert brief description of the nature of change)

C. Replacement of Official Zoning Map:

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions the governing authority may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the Official Zoning Map.

3.3 Uncertainty of Boundary Location:

- A. Where uncertainty exists with respect to the boundaries of the various Districts as shown on the Zoning Maps, the following rules shall apply:
- B. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- C. Boundaries indicated as approximately following well established lot lines shall be construed as following such lot lines
- D. Boundaries indicated as approximately following town limits shall be construed as following town limits;
- E. Boundaries indicated as following shorelines shall be construed to follow such shorelines, 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 centerline of streams, rivers or other bodies of water shall be construed to follow such centerlines;
- F. Boundaries indicated as being parallel to or extensions of features indicated in subsections A through D above shall be so construed. Distances not specifically indicated on the Official Zoning map shall be determined by the scale of the map;
- G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning map, or in other circumstances not covered by sections A through D above, the Board of Appeals shall interpret the District Boundaries.
- H. The boundaries of the Resource Protection Overlay District are shown only approximately on the Official Zoning map. Regardless of the location of the boundaries shown on the map, the boundaries shall be the indicated distance from the normal high water line of a water body or the upland edge of a wetland.

3.4 Division of Lots by District Boundaries:

- A. Where a zoning District boundary line, other than the boundary line of the Resource Protection Overlay District, Shoreland Overlay District or Saco River Overlay District, divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than 50 feet into the more restricted portion of the lot, subject to the provisions of paragraph 3.4.B. below
- B. Extension of use shall be considered a Conditional Use, subject to approval of the Planning Board and in accordance with the criteria set forth in Section 8.9, Factors Applicable to Conditional Uses.

3.5 Overlay Districts:

The Resource Protection Overlay District, the Shoreland Overlay District and the Saco River Overlay District make up the Shoreland zone and provide additional regulation over that already in place in the underlying district. In order to be permitted, a proposed use must be listed as permitted in both the overlay district and the underlying district. The dimensional requirements of the underlying district are modified when property is located in an overlay district. Additional performance standards apply within the Shoreland zone than apply in the remainder of the town.

ARTICLE 4: CONSTRUCTION OF LANGUAGE AND DEFINITIONS

4.1 Construction of Language

4.2 Definitions

4.1 Construction of Language:

In this Ordinance, certain terms or words shall be interpreted as follows:

The word “person” includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual;

The present tense includes the future tense,

The singular number includes the plural, and the plural includes the singular;

The word “shall”, and “will” is mandatory, and the word “may” is permissive;

The words “uses” or “occupies” include the words “intended”, “designed”, or “arranged to be used or occupied”;

The word “building” includes the word “structure”, and the word “dwelling includes the word “residence”;

The word “lot” includes the words “plot” or “parcel”.

The word “Town”, or “Municipality”, mean the Town of Dayton

In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

4.2 Definitions:

In this Ordinance the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed:

Accessory Dwelling Unit: A room or suite of rooms used by a one, two or three member family which is separate from other existing suites of rooms which comprise the principal living space of the home and which contains independent living, cooking, sleeping, bathing and sanitary facilities.

Accessory Use or Structure: A use, structure or building of a nature customarily incidental and subordinate to those of the principal use, structure or building. 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.

Aggrieved Person or Party: A person whose land is directly or indirectly affected by the grant or denial of a permit or variance has been granted, or a group of five or more citizens of the municipality who represent an interest adverse to the grant or denial of such permit or variance.

Agriculture: The commercial use of land for the purpose of growing plants, crops trees and other agricultural, or horticultural purposes, or raising farm animals or processing and selling farm products. Agricultural does not include forest management and timber harvesting activities.

Alteration: Any change, addition, or modification in construction, or any change in the structural members of a building, such as bearing walls, columns, beams, or girders.

Amusement Center: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

Apartment: See “Dwelling Unit” and Multi-Family Dwelling”.

Aquaculture: The growing or propagation of harvestable freshwater plant or animal species

Area of Special Flood Hazard: The land in the flood plain having a one percent or greater chance of flooding in any given year.

Authorized Agent: Anyone having written authorization, signed by a property owner, to act in behalf of that property owner.

Automobile Graveyard: A yard, field or other open area used as a place of storage for 3 or more unserviceable, discarded, worn-out or junked motor vehicles, including all vehicles which cannot pass the State inspection test in their existing condition or are otherwise inoperable.

Automobile Repair Garage: A place where, with or without the attendant sale of engine fuels, the following services may be carried out; general repair, engine rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair; overall painting and undercoating of automobiles.

Automobile Service Station: A place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises; including the sale of motor accessories and the servicing and motor repair of automobiles, not including storage of unlicensed vehicles and not including body, frame, or fender straightening and repair.

Basal Area: The area of cross-section of a tree stem at 4 ½ feet above ground level and inclusive of bark.

Base Flood: Means the flood having a one percent chance of being equaled or exceeded in any given year, alternately referred to as the 100 year flood

Basement: A portion of the building partly underground but having less than half its clear height below the average grade of the adjoining ground.

Bed & Breakfast: A single family dwelling in which lodging or lodging and meals are offered to the general public for compensation, offering no more than three bedrooms for lodging purposes.

Billboard: A sign, structure or surface larger than fifty (50) square feet, which is available for advertising purposes for goods or services.

Boardinghouse: Any residential structure where lodging or lodging and meals are provided for compensation for a period of at least two weeks, and where a family residing in the building acts as proprietor or owner. There is no provision for cooking in any individual room.

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

Bottle Club: An establishment where no alcoholic beverages are sold, but where members, guests or customers provide their own alcoholic beverages, paying a fee or other consideration for admission or membership, and/or for set-ups.

Brook: Cooks Brook upstream of Stony Brook, Red Brook (sometimes known as Runnel's Brook), Swan Pond Creek, and Pot Hook Brook, Kimball Brook, and Buzzell Brook (sometimes known as Smith Brook or Great Springs Brook)

Buffer Strip: A strip of land, including individual lot setbacks, if any. No structures, roads or utilities may be placed in the buffer strip, except that utilities may cross it to provide services.

Building: A structure for the support, shelter or enclosure of persons, animals, goods or property of any kind.

Building Height: The vertical distance between the highest point of the roof and the average grade of the adjoining ground.

Campground: Any premises established for overnight use for the purpose of temporary camping, and for which a fee is charged.

Cellar: A portion of the building partly underground, but having half or more of its clear height below the average grade of the adjoining ground.

Change of Use: A change from one category in the land use table to another or the addition of a new category of use to an existing use.

Channel: A natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

Club: Any association of persons organized for social, religious, benevolent, or academic purposes; whose facilities are open to members and guests including fraternities, sororities, and social organizations.

Cluster Development: A development designed to promote the creation of open space by a reduction in dimensional and area requirements.

Code Enforcement Officer: A person appointed by the Municipal Officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

Commercial Sign: An attached or freestanding structure which directs attention to a business or profession conducted on the premises.

Commercial Use: The use of lands, buildings or structures, other than a “home occupation”, defined below, 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.

Condemned Building or Structure: Any building found by the Municipal Officers to constitute a hazard to health and safety pursuant to Title 17, M.R.S.A. section 2851 et seq.

Conditional Use: A use permitted only after review and approval by the Planning Board. A Conditional Use that would not be appropriate without restriction but which, if controlled under the provisions of this Ordinance, would promote the purposes of this Ordinance. Such uses may be permitted if specific provision of such Conditional Use is made in this Ordinance.

Conditional Use Permit: A permit authorized by the Planning Board for a Conditional Use. A Conditional Use Permit may be issued only after the applicant has followed the procedures of this Ordinance.

Conforming Use: A use of buildings, structures or land, which complies, with all applicable provisions of this Ordinance.

Constructed: Including built, erected altered, reconstructed, moved upon, or any physical operations on the premises, which are required for construction, excavation, fill, drainage, and the like shall be considered a part of construction.

Convenience Store: A store of less than 2,500 square feet of floor space intended to service the convenience of a residential neighborhood with such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items.

Day Care Center: An establishment, including a private residence, where three or more children under the age of six are cared for in return for compensation.

Deck: An uncovered structure with a floor, elevated above ground level.

Decorative Changes: Repainting or re-siding; removing or replacing trim, railings, or other non-structural architectural details; or the addition, removal or change of location of windows and doors.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

District: A specified portion of the municipality delineated on the Official Zoning Map, within which, certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Driveway: A vehicular access-way less than 500 feet in length serving two single family dwellings or one two-family dwelling, or less.

Duplex: A dwelling containing two (2) dwelling units, for occupancy by not more than two (2) families.

Dwelling: Any building or structure or portion thereof designed or used for residential purposes.

Single-Family Dwelling: A building containing only one (1) dwelling unit for occupation by not more than one (1) family

Multi-Family Dwelling: A building containing three (3) or more dwelling units, such buildings being designed for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking, bathing and eating. Except in the Shoreland Zone, a dwelling unit contains cooking sleeping and toilet facilities. The term shall include mobile homes, but shall not include trailers or recreational vehicles.

Earth: Topsoil, sand, gravel, clay, peat, rock or other minerals.

Emergency Operations: Emergency operations shall include 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 human beings and livestock from the threat of destruction or injury.

Essential Services: The construction, alteration or maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection,

supply or disposal systems. Such systems may include towers, poles, wires, mains, drains, sewer pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but shall not include buildings which are necessary for the furnishing of such services.

Eutrophication: The process of nutrient enrichment of water bodies.

Excavation: Any breaking of the ground except common household gardening and ground care.

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

Expansion of Use: The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Family: One or more persons occupying a premise and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel. Such unit shall not exceed five persons not related by blood or marriage.

Filling: Deposition or dumping any matter on or into the ground or water.

Flea Market: The Sale of used merchandise customarily involving tables or space leased or rented to vendors.

Floating Slab: A reinforced concrete slab designed to withstand pressure both from below and above.

Flood: A temporary rise in stream flow or tidal surge that results in water overtopping its banks and inundating adjacent areas.

Flood Plain: The special flood hazard area designated on the Flood Insurance Rate Map of Dayton prepared by the Federal Emergency Management Agency and dated December 1, 1980.

Floodway: The channel of a stream and those portions of the flood plain adjoining the channel that is required to carry and discharge the flood water or flood flows of any river or stream.

Flood proofing: A combination of structural provisions, changes, or adjustments to properties subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings.

Floor Area, Gross: The sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the exterior faces of the exterior walls, plus the horizontal area of any closed portions of a structure such as porches and decks.

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

Forest Management Activities: Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, but not timber harvesting or the construction, or creation or maintenance of roads.

Forested Wetland: A wetland, which is dominated by woody vegetation 20 feet tall or taller.

Foundation: The supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frost walls.

Frontage, Street: The contiguous linear distance of the line separating the lot from a "street," as defined in this Ordinance.

Frontage, Private Road: The contiguous linear distance of the line separating the lot from a "private road," as defined in this Ordinance.

Frontage, Shore: The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at "normal high-water line," as defined in this Ordinance.

Frost wall: a masonry foundation wall extending below the ground surface, supported by footings located below the frost line.

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

Garage Sale: See Yard Sale.

Grade: in relation to buildings, the average of the finished ground level at the center of each wall of a building.

Gravel Pit: a plot of land from which the sub-soil is removed for sale or for use on another parcel:

Ground Cover: Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor

Hazard Trees: A tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of major structural components of the tree in a manner that will

strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to; hurricanes hurricane force winds, tornados, microbursts, or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree fails. Targets include roads, driveways, parking areas, structures, campsites and any other developed areas where people frequently gather and linger

Height of a Structure: the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

High Water Line, Normal: that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or vegetation changes, and which distinguishes between predominantly aquatic and predominately terrestrial; In the case of wetlands adjacent to rivers, the normal high-water line is the upland edge of the wetland, and the open water.

Home Occupation: an occupation or profession which is customarily carried on in a dwelling unit; carried on by a member of the family residing in the dwelling unit with no more than two persons outside the family employed; and clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Increase in non-conformity of a structure: Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity such as but not limited to reduction to 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 non-conformance of the existing structure shall not be considered to increase non-conformity. For example there is no increase in non-conformity with the setback requirement for water bodies, wetland, or tributary streams if the expansion extends no further into the required setback area than does the existing structure from that water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions that 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 individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fireplaces, or tent platforms.

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

Institutional: A non-profit or Quasi-public use, or institution such as church, library, public or private school, hospital, or municipally owned, or operated building, structure or land used for public purposes.

Junkyard: a yard, field or other area exposed to the elements and used as a place of storage or disposition for;

Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture.

Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material;

Kennel: A location where dogs or cats are bred or boarded for commercial purposes.

Lagoon: an artificial enlargement of a waterbody, primarily by means of dredging and excavation.

Lodging House: a building in which more than two but not more than five rooms are offered for overnight accommodation with or without meals, for compensation. This definition includes boarding houses and tourist homes.

Lot: a parcel of land in single ownership, described on a deed, plot or similar legal document.

Lot Area: the total horizontal area within the lot lines, 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.

Lot, Corner: a lot with at least two contiguous sides abutting upon any public way.

Lot Coverage: the percentage of the lot covered by all buildings.

Lot lines: the lines bounding a lot as defined below:

Front Lot Line: on an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from either street.

Rear Lot Line: the lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.

Side Lot Line: any lot line other than the front lot line or rear lot line.

Lot width: the shortest horizontal distance between the lot lines, measured at the setback line.

Lot of Record: a parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds or in common use by City or County officials.

Lot, Shorefront: any lot abutting a water body.

Lot Through: any interior lot having frontage on two more or less parallel streets, or between a street and a water body, or between two water bodies, a distinguished from a corner lot. All sides of through lots adjacent to streets and water bodies shall be considered frontage, and front yards shall be provided as required.

Manufactured Housing Unit: Structures, transportable in one or more sections, which were constructed in a manufacturing facility and transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

Marina: a business establishment having frontage on navigable water and, 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 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 price levels.

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 transports the product removed away from the extraction site.

Mobile Home Park: A parcel of land under unified ownership designed and/or used to accommodate three (3) or more manufactured housing units.

Multifamily Development: A lot which contains one or more multifamily dwellings, two or more duplexes, three or more single family dwellings, or any combination of buildings containing three or more dwelling units.

Neighborhood Convenience Store: A store of less than 2,500 square feet of floor space intended to service the convenience of a residential neighborhood with such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items.

Net Residential Density: The number of dwelling units per net residential acre.

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 is located.

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

Non-Conforming Use: a use of a building, structure, premises, land or parts thereof which is not allowed in the district in which it is situated and which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-native Invasive Species of Vegetation: Species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems, and not native to Maine ecosystems

Normal High-Water Line: That line on the shores and banks of waters which is apparent because of the different character of the soil or the vegetation due to the prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

Nursing Home: Any facility which provides meals, lodging and nursing care for compensation.

Open Space Use: A use not involving: a structure; earth-moving activity; or the removal or destruction of vegetative cover, spawning grounds, or fish, aquatic life, bird, and other wildlife habitat.

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

Parking Space: An area of (200) two hundred square feet, exclusive of drives or aisles for the parking of vehicles.

Parks and Outdoor Recreation Areas: Public and private non-commercial recreation facilities open to the general public and requiring minimal structural development, including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land a facilities, but not including campgrounds, commercial recreation and amusement centers as defined elsewhere in this ordinance.

Personal Property: Property which is owned, utilized and maintained by an individual or members of his or her family (as that term is defined in this Ordinance) and acquired in the

normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

Personal Services: A business which provides services but not goods such as, hairdressers, shoe repair, real estate, and insurance etc.

Principal Structure: The structure in which the principal use of the lot is conducted.

Principal Use: The primary use to which the premises are devoted.

Private Road: A road or way belonging to one or more private individuals, as distinct from the public

Probable Violation: a situation where the Code Enforcement Officer, relying upon his or her own personal and/ or professional judgment and expertise, cannot accurately determine if a violation of the provisions of the Zoning Ordinance has occurred or is about to occur.

Professional Services: A business that offers any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization. By way of example, and without limiting the generality of this definition, professional services include services rendered by certified public accountants, public accountants, engineers, chiropractors, dentists, osteopaths, physicians and surgeons, podiatrists, chiropodists, architects, veterinarians, attorneys at law, physical therapists, and life insurance agents.

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.

Recreation, Active: Recreation activities which necessitate some degree of structural or mechanical components for participation in the activity.

Recreation, Commercial: Any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to: racquetball, health facility, amusement parks but not including amusement centers.

Recreational Facility: a place designed and equipped for the 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 designed to be towed, and 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 a State Division of Motor Vehicles.

Residential Growth Permit: A document required under the Dayton Growth Ordinance (to which reference may be made for a more complete definition).

Restaurant: An establishment where meals are prepared and served to the public for consumption for compensation.

Standard Restaurant: A business involving the preparation and serving of meals for consumption on the premises, requiring moderate amounts of time between the period of ordering and serving of the food.

Fast Food Restaurant: A business involving the preparation and serving of meals for consumption on the premises or off the premises, normally requiring short amounts of time between the period of ordering and serving of the food, which is served in edible or disposable containers.

Drive-In Restaurant: A business involving the preparation and serving of meals for consumption on the premises in a motor vehicle or off the premises, normally requiring short amounts of time between the period of ordering and serving of the food, which is served in edible or disposable containers.

Right of Way: The area in which one has the right to pass over the land of another.

Riprap: rocks, irregularly shaped, and at least six inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two units horizontal to one unit vertical or less.

River: the Saco River from the Hollis Town line to the Biddeford city line, and Cooks Brook downstream of Stony Brook.

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.

Sapling: A tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling: A young tree species that is less than four and one half feet (4.5) in height above ground level.

Setback: The horizontal distance from the lot line to the nearest part of a structure.

Setback from Water (Shoreline setback): the minimum horizontal distance from the normal high water line or upland edge of a wetland to the nearest part of a structure, road, parking space or other regulated object or area.

Shoreland Zone: the land area located within the jurisdiction of the Saco River Corridor Commission, under Title 38, M.R.S.A. 951 et. Seq.; within 250 feet, horizontal distance, of the

upland edge of a wetland; within 150 feet, horizontal distance of the normal high water line of a brook; or within 75 feet of the normal high water line of a stream.

Sign: A display surface, fabric or device containing organized and related elements (letters, pictures, products, or sculptures) composed to form a single unit, designed to convey information visually and which is exposed to public view. In cases where matter is displayed in a random or unconnected manner without an organized relationship, each such component shall constitute a sign.

Stop Order: A written order issued by the Code Enforcement Officer requiring the cessation of work, use or an activity deemed by the Code Enforcement Officer to be a violation or a probable violation of the Zoning Ordinance.

Storm Damaged Tree: A tree that has been uprooted, blown down, lying on the ground, or remains standing and is damaged beyond the point of recovery as the result of a storm event.

Stream: a free-flowing body of water, which is not a brook, from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a waterbody or wetland and a channel meets downstream of the water body or wetland as an outlet, that channel is also a stream.

Street: public and private ways such as alleys, avenues boulevards easements, highways, roads and rights-of-way, over 500 feet in length, and providing access to two or more dwelling units. Providing, generally, the primary means of access and egress from property abutting along its length. A street created after the effective date of this amendment which will satisfy the street frontage requirements of this ordinance must meet the requirements as set forth in the Ordinance entitled Subdivision Regulations of the Town of Dayton, Maine.

Structure: anything temporarily or permanently located, built, constructed, or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind anything constructed or erected on or in the ground, The term includes structures temporarily or permanently located, such as decks and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A. section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32. Section 4700-E subsection 3-C; or wells or water wells as defined in Title 32. Section 4700-E subsection 8

Subdivision: A division of land as defined in Title 30-A, Section 4401 of the Maine Revised Statutes Annotated. Without limiting or expanding the foregoing, a subdivision is, in general terms, the division of a lot of land into three or more lots, or the creation of three or more dwelling units on a lot of land, within a single five year period.

Substantial Expansion: Floor space increase of 25% or new materials or processes not normally associated with the existing use.

Substantial Start: completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System: a collection of treatment tank(s), disposal area(s) holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditches, alternative toilets, or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 413 Subsection 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

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

Timber Harvesting: The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for construction approved under this Ordinance. “Timber Harvesting” does not include the cutting or removal of vegetation within the Shoreland zone when associated with any other land use activities

Tree: A woody perennial plant with a well defined trunk(s) at least two (2) inches in diameter at four and one half feet (4.5) above the ground, with a more or less definite crown and reaching a height of at least ten (10) feet at maturity

Tributary Stream: a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the terms “stream” or “brook” 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 six (6) meters (approximately twenty (20) foot) tall or taller.

Variance: A variance is a relaxation of the terms of this ordinance. Variances permissible under this ordinance are limited to dimensional and area requirements. No variance shall be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted exclusively because of the presence of nonconformities in the immediate or adjacent areas.

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 ½ feet above ground level.

Vehicle sales: Any business which involves a parking or display area for the sale of new or used cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, mobile homes, or similar products.

Volume of Structure: the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior face of these walls and roof.

Water Body: any stream or brook.

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

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

- (a) of ten or more contiguous acres; or of less than ten contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of ten acres; and
- (b) Inundated or saturated by surface or ground water at a frequency and for duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

Wetlands Associated with Rivers: wetlands contiguous with or adjacent to a river, and which during normal high water, are connected by surface water to the river. Also included are wetlands which are separated from the 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 river. Wetlands associated with rivers are considered to be part of that river.

Yard: The area between a structure and the property boundary.

Yard Sale: The term “yard sale” shall include so called garage sales, porch sales, tag sales, and the like. Yard Sales shall not be for more than five (5) consecutive days or more than twice a year.

Year: Any period of twelve consecutive calendar months.

ARTICLE 5 - DISTRICT REGULATIONS

5.1 Purpose

5.2 Table of Dimensional Requirements

5.3 Table of Land Uses

5.4 General Requirements

5.1. Purpose

MIXED USE:

To promote intensive commercial, industrial and residential development in areas that have adequate transportation infrastructure and are located in proximity to existing commercial and industrial areas

RURAL FIELD:

To allow for residential and low- intensity commercial uses while protecting Dayton's rural character in areas with views of open fields from existing public roads

RURAL FOREST:

To allow for residential and low- intensity commercial and industrial uses while protecting and preserving forested backland for recreational purposes

RIVER BUFFER:

To fulfill the purpose of the state's Mandatory Shoreland Act {38 MRSA Section 435-449

CRITICAL RURAL:

To limit development in large, contiguous areas that contain significant natural resources

COMMERCIAL / INDUSTRIAL:

To promote a zone dedicated to the development of commercial and industrial ventures that does not conflict with residential development and is accessible by the towns limited arterial highway system. The zone is further intended to maintain the existing extractive industries in an area that does not conflict with other less intensive land uses

VILLAGE DISTRICT:

1. To provide for areas of compact residential growth in such a manner and at such locations as are compatible with existing development and the ability of the community to provide essential services and utilities.
2. To provide an area where the location of public facilities can serve the greatest number of people as economically as possible.
3. To allow a maximum diversity of uses, while protecting the public health and safety, environmental quality and economic well-being Of the Municipality, by controlling those uses which, by the virtue of their external effects (waste discharge, noise, glare, fumes, smoke, dust, odors or traffic) could otherwise create nuisances or unsafe or unhealthy conditions.

RESOURCE PROTECTION OVERLAY DISTRICT:

1. In the interest of wise land use, public health, convenience, safety and welfare, the regulations of this District are intended to guide the use of areas of land with extended periods of high water tables:
2. To control the development of structures and land uses on naturally occurring wetlands, which would contribute to pollution of surface water and ground water by sewage.
3. To prevent the destruction of natural wetlands which provide flood protection and storm water storage, recharge of groundwater supply, and augmentation of stream flow during dry periods.
4. To prevent unnecessary or excessive expenses to the town to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands.
5. To encourage those uses that can appropriately and safely be located in wetland areas.
6. To protect presently existing natural wetland wildlife habitat.
7. To protect the storage capacity of flood plains and to assure retention of sufficient floodway area to convey flood flows, which reasonably can be expected to occur.

SHORELAND OVERLAY DISTRICT:

1. To prevent and control water pollution
2. To protect fish spawning grounds, aquatic life, bird and other wildlife habitat;
3. To conserve shore cover, and visual as well as actual points of access to water bodies

4. To conserve natural beauty and open space; and
5. To anticipate and respond to the impacts of development

5.2 Table of Dimensional Requirements:

Lots and structures in all Districts other than the Saco River Overlay District, shall meet or exceed the following minimum requirements: Lots and structures in the Saco River Overlay District shall conform to the most recent regulations as adopted by the Saco River Corridor Commission.

Village District:

(V)

The Village District is comprised of the land shown on the Official Zoning Map of the Town of Dayton and more accurately described in a report done by Amos J. Gay for the Town of Dayton, dated Dec. 2006

Minimum Lot Size 1.377 ac. (60,000 sq. ft.)

Minimum Road Frontage	125 ft. (B)
Minimum Front Setback	50 ft. (C, D, E)
Minimum Rear Setback	30 ft. (E)
Minimum Side Setback	30 ft. (E)

Maximum Lot Coverage	Residential	25%
	Non-Residential	40%

Maximum Building Height	35 ft. (F)
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Mixed Use District:

(M)

Minimum Lot Size: 1 ac. (43,560 sq. ft.) for commercial development, 2 ac. (87,120sq. ft.) for residential development.

The Mixed Use District is comprised of all land located within approximately 1,000 feet linear distance from the sections of Route 5, and 35. Along Route 5 on the Southerly side beginning at the intersection of Gould Rd., Westerly to the intersection of the Rumery Road, and on the Northerly side continuing to the Hollis Town line, and Route 35 on the Easterly side, from Route 5 to the Lyman Town Line, as shown on the Dayton Land Use Map.

Minimum Road Frontage	200 ft. (B)
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Minimum Front Setback	60 ft. (C, D, E)
Minimum Rear Setback	50 ft. (E)
Minimum Side Setback	50 ft. (E)

Maximum Lot Coverage	Residential	25%
	Non-Residential	40%

Maximum Building Height	35 ft. (F)
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Rural Fields District: Fields

All land located within a 2000-foot linear distance of corridors with views of open fields as well as backland that sits between these areas. The districts boundaries encompass all of the town's land located South and East of the Mixed Use District and areas located within 2000 feet of Route 5 and the section of Hollis Road located South of Buda Road.

Minimum Lot Size:

- For single-lot development: 3 acres (130,680 square feet).
- For non-clustered subdivision development: 5 acres (217,800 square feet)
- For clustered subdivision development: 1 acre (43,560) individual lot size, but shall not exceed an overall density of 1 dwelling unit per 2.5 acres of total acreage

Minimum Road Frontage	275 ft. (B)
Minimum Front Setback	75 ft. (C, E)
Minimum Rear Setback	50 ft. (E)
Minimum Side Setback	50 ft. (E)

Maximum Lot Coverage	Residential	25%
	Non-Residential	40%

Maximum Building Height	35 ft. (F)
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Rural Forest District: Forest

This district encompasses much of the Northwest portion of Dayton to the North of Route 5, with the exception of land that is part of the River Buffer or Critical Rural Districts. This area is mostly forested and contains large sections of undeveloped back land, much of which is currently used for recreational purposes.

Minimum Lot Size:

- For single-lot development: 3 acres (130,680 square feet).
- For non-clustered subdivision development: 5 acres (217,800 square feet)
- For clustered subdivision development: 1 acre (43,560) individual lot size, but shall not exceed an overall density of 1 dwelling unit per 2.5 acres of total acreage

Minimum Road Frontage	275 ft. (B)
Minimum Front Setback	75 ft. (C,E)

(Note: Front Yard setbacks on the Westerly side of Clarks Mills Road may be reduced to 60 feet).

Minimum Rear Setback	50 ft. (E)
Minimum Side Setback	50 ft. (E)

Maximum Lot Coverage	Residential	25%
	Non-Residential	40%

Maximum Building Height	35 ft. (F)
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Commercial/Industrial District: (C.I.)

All lands located to the West and South of Rte. 5 and Rte. 35 as shown on the Dayton Land Use map.

Minimum Lot Size 2 ac. (87,120 sq. ft.)

Minimum Road Frontage	200 ft. (B)
Minimum Front Setback	100 ft. (C)
Minimum Rear Setback	50 ft. (E)
Minimum Side Setback	50 ft. (E)

Maximum Lot Coverage	Residential	25%
	Non-Residential	40%

Maximum Building Height	35 ft. (F)
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Critical Rural District: (C.R.)

The contiguous undeveloped area located between Route 35, and Hight Road and Dyer Road. This district encompasses all land within 250 feet from the upland edge of the wetland associated with Runnels Brook. This area contains wetlands, floodplains, animal habitat and other critical natural resources. It also abuts several recently developed residential subdivisions and its edges are increasingly threatened by development.

Minimum Lot Size 5 ac. (217,800 sq. ft.)

Minimum Road Frontage	375 ft. (B)
Minimum Front Setback	75 ft. (C,E)
Minimum Rear Setback	75 ft. (E)
Minimum Side Setback	75 ft. (E)

Maximum Lot Coverage	Residential	05%
	Non-Residential	10%

Maximum Building Height	35 ft. (F)
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Shoreland Overlay District: (S)

Minimum Lot area: 40,000sq. ft. per residential dwelling unit, and 60,000 sq. ft. for governmental, institutional, commercial, or industrial per principal structure or use .

Minimum setback from the normal high water line of a great pond	150 ft.
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Minimum setback from a stream	75 ft
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Minimum setback from a wetland	75ft.
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Minimum shore frontage of 200 feet per residential dwelling unit, and minimum shore frontage of 300 feet for governmental, institutional, commercial, or industrial uses per principal structure

Maximum building height	35 ft. SEE NOTE (F)
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Maximum Lot Coverage	SEE NOTE (G)
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Resource Protection Overlay District: (R.P.)

Minimum Setback	150 feet horizontal distance from normal high water line
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A. The Resource Protection District includes those areas which are wetland, have been identified as wildlife/waterfowl habitat by the Maine Department of Inland Fisheries and Wildlife, contain steep slopes, or other critical areas identified in the Towns Comprehensive Plan as requiring protection from development. The district shall also include all land within 150 feet of Cooks Brook, Red Brook (Runnells Brook), Swan Pond Creek, Pot Hook Brook, Kimball Brook, and Buzzell Brook (Smith Brook or Great Springs Brook)

B. Only those non- structural uses designed as permitted uses or conditional uses in the Resource Protection District of the Land Use Table shall be allowed in the Resource Protection District.

- C. No person shall remove, fill, dredge, or otherwise alter any part of the Resource Protection District without obtaining a conditional use permit from the planning Board, in addition to all necessary permits from the Maine Department of Environmental Protection as required.

River Buffer District:

All areas located within 250 linear distance of the high water mark of the Saco River. The 250-foot distance lies within the jurisdiction of the Saco River Corridor Commission and corresponds with the states mandatory Shoreland Zoning district for areas along rivers.

Minimum Lot Size 3ac. (130,680 sq. ft.)

All land within 500 feet of the Saco River falls within the jurisdiction of the Saco River Corridor Commission

NOTES:

- (A) No portion of any lot created after the effective date of adoption or amendment of this Ordinance and lying within the Resource Protection District may be used to meet the dimensional requirements of other Districts in which the remainder of the lot is situated. Where a residential structure exists on the effective date of adoption or amendment of this Ordinance, no lot containing such structure shall be created which does not contain an area consistent with the minimum lot size required in the district in which it is located.
- (B) A lot abutting a public road, private road, or right of way shall have a minimum road frontage according to the above table. A lot abutting a stream or wetland in any district shall have minimum shore frontage of 200 feet, except in the Critical Rural District where the minimum shore frontage shall be 300’.
- (C) A front yard abutting a public road, a private road or a right of way shall have a minimum depth, measured from the edge of the right of way line, according to the above table. The depth of any yard abutting a public road, a private road, or a right of way shall conform to the front yard requirements. 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 Sept. 22, 1971.
- (D) Where a proposed structure is abutted on both sides by existing structures whose setback from the road is less than the required setback, the setback of the proposed structure may be reduced to that of the abutting structures upon approval of the Planning Board in accordance with the provisions of Article 6.

- (E) Except in the Shoreland Overlay and Resource Protection Districts, driveways and parking spaces shall not be considered as part of any setback requirements. In the Shoreland Overlay and Resource Protection Districts, driveways and Parking areas shall meet the setback from a water body or wetland required by structures. The water body or wetland setback provision shall neither apply 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. 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 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; and that the applicant demonstrates that no reasonable access alternative exists on the property.
- (F) On any new building and expansions of existing structures the highest part of any eaves or parapet wall shall not be more than 35 feet. In the Shoreland Zone principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection and Shoreland Overlay District shall not exceed 35 feet in height. In the Shoreland Zone this structure height shall be 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. Features of buildings and structures, such as chimneys, silos, towers, ventilators, and spires may exceed 35 feet in height, but shall be set back from the nearest lot line a distance not less than the height of such features or structures, unless a greater setback is required by other provisions of this Ordinance.
- (G) Maximum lot coverage shall include a 25% potential for expansion of floor space and 50 percent for expansion of parking areas. Maximum lot coverage, including all structures, parking lots, and other non-vegetated surfaces, in the Shoreland Zone shall be limited to 20%

5.3 Table of Land Uses:

Land uses permitted in each District other than the Saco River Overlay District, in conformance with the Performance Standards of Article 5, are shown in the following table. Uses permitted in the Saco River Overlay District are those permitted by the most recent Saco River Corridor Commission's regulations.

Key: P Permit from Code Officer after Site Review

N Not Permitted

PB Requires Planning Board Review

* Subject to Specific Performance Standards

Proposed Use	ORD REF	V	R.P.	S.	M	FOREST	FIELDS	C.R.	C.I.
Accessory Structures	5.4.(2)	P	PB	PB	P	P	P	P	P
Active Outdoor Recreation		PB	PB	PB	PB	PB	PB	PB	PB
Agriculture, Nurseries, Gardening	7.5	P	P	P	P	P	P	P	P
Amusement centers	7.1	PB	N	N	PB	PB	PB	N	PB
Animal Husbandry	7.11	N	N	N	P	P	P	PB	PB
Auto Junk Yard*		N	N	N	PB	PB	PB	N	PB
Auto Repair Garage*		N	N	N	PB	PB	PB	N	PB
Auto Service Station*		N	N	N	PB	PB	PB	N	PB
Banks		PB	N	N	P	PB	PB	N	P
Bed and breakfast	7.2	PB	N	N	PB	PB	PB	PB	N
Boat and RV Sales and Service		N	PB	PB	PB	N	N	N	P
Bottle Club		N	N	N	PB	PB	PB	PB	PB
Bulk Fuel Storage		N	N	N	N	N	N	N	PB
Bus. and Professional Offices(1)		PB	N	N	PB	PB	PB	PB	P

Proposed Use	ORD REF	V
Bus. and Professional Offices(2)		N
Campgrounds	7.3	N
Car Wash		PB
Cemeteries		PB
Churches		PB
Cluster Development	7.17	N
Commercial Recreation	7.6	N
Daycare Facility		PB
Daycare Home		PB
Duplexes	5.4 (1)	P
Earth Moving Activities	7.7	N
Elderly Housing		PB
Flea Market		N
Forestry		P
Funeral Homes		N
Golf Course		N
Home Occupations*	7.7	P
Individual Private campsites	7.4	N
Industrial1		PB
Industrial2		N
Inn	7.10	PB
Kennels		PB
Libraries, Museums		PB
Manufacturing		N
Medical Offices & Clinic		N
Mobile Home Parks*	7.13	N
Motels-Hotels	7.10	PB
Motor Vehicle Sales		N
Multi-Family Dwellings*	7.14	PB
		V

R.P.	S.	M	FOREST	FIELDS	C.R.	C.I.
N	N	PB	PB	PB	N	P
PB	PB	PB	PB	PB	PB	N
N	N	PB	PB	PB	PB	PB
N	N	PB	PB	PB	PB	N
N	N	PB	PB	PB	PB	PB
N	N	N	PB	PB	PB	N
N	N	PB	PB	PB	PB	N
N	N	PB	PB	PB	PB	N
N	N	PB	PB	PB	PB	N
N	N	P	P	P	P	N
N	N	PB	PB	PB	N	PB
N	N	PB	PB	PB	N	N
N	N	PB	PB	PB	N	PB
P	P	P	P	P	P	P
N	N	PB	PB	PB	N	PB
PB	PB	PB	PB	PB	PB	N
N	P	P	P	P	P	N
P	P	P	P	P	P	N
N	N	PB	PB	PB	PB	PB
N	N	PB	PB	PB	PB	PB
N	N	PB	PB	PB	PB	N
N	PB	PB	PB	PB	N	N
N	N	PB	PB	PB	PB	PB
N	N	PB	PB	PB	N	PB
N	N	PB	PB	PB	PB	PB
N	N	PB	PB	PB	N	N
N	N	PB	PB	PB	PB	PB
N	N	N	N	PB	N	PB
N	N	PB	PB	PB	PB	N
R.P.	S	M	Farm	Fields	C.R.	C.I.

Proposed Use	ORD REF	V
Municipal Uses		PB
Neighborhood Convenience Store		PB
Nursing Homes		PB
Open Space		P
Passive Outdoor Recreation		P
Personal Services1		PB
Personal Services2		N
Private Clubs		N
Public and Private Parks		P
Public Utilities		N
Research and Testing Facilities		N
Restaurants	7.15	PB
Restaurant Drive-In		PB
Restaurants Fast Food		PB
Retail Stores (1)		PB
Retail Stores (2)		N
Schools- Public or Private	7.16	PB
Seasonal Farm Stands		P
Signs*	6.13	P
Single Family Dwelling		P
Spreading/Storage of Sludge		N
Transmission Towers		N
Veterinary Clinic	7.11	N
Warehouse and Outdoor Storage		N
Wholesale Business		N
Yard Sales		Y
Uses similar to permitted uses		P
Uses similar to conditional uses		PB

R.P.	S.	M	FOREST	FIELDS	C.R.	C.I.
PB	PB	PB	PB	PB	PB	PB
N	N	PB	PB	PB	PB	PB
N	N	PB	PB	PB	PB	N
P	P	P	P	P	P	P
P	P	P	P	P	P	N
N	N	PB	PB	PB	PB	PB
N	N	PB	PB	PB	PB	PB
N	N	PB	PB	PB	N	N
PB	PB	P	P	P	P	N
N	N	PB	PB	PB	N	PB
N	N	PB	PB	PB	N	PB
N	N	PB	PB	PB	N	N
N	N	PB	PB	PB	N	PB
N	N	PB	PB	PB	N	N
N	N	PB	PB	PB	N	PB
N	N	PB	PB	PB	N	PB
N	N	PB	PB	PB	N	PB
N	N	PB	PB	PB	PB	N
P	P	P	P	P	P	P
N	N	P	P	P	P	P
N	N	P	P	P	P	N
N	N	P	P	P	P	N
N	N	PB	PB	PB	PB	PB
N	N	PB	PB	PB	N	PB
N	N	PB	PB	PB	N	PB
N	N	PB	PB	PB	N	PB
Y	Y	Y	Y	Y	Y	Y
P	P	P	P	P	P	P
PB	PB	PB	PB	PB	PB	PB

Proposed Use	ORD REF	V
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Uses similar to prohibited uses Notes		N
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1) 2500 Sq. Ft. or less or 6
employees or less

RP	S	M	FOREST	FIELDS	C.R.	C.I.
N	N	N	N	N	N	N

5.4 General Requirements:

The following requirements shall apply to all structures:

1. Principal Buildings:

If more than one principal building is constructed on a single parcel of land, all dimensional requirements, including lot area, shall be met separately for each principal building. If more than one dwelling unit is constructed or placed on a single parcel of land within the Shoreland Zone, the minimum lot area and the minimum shore frontage shall be met for each dwelling unit.

2. Accessory Buildings:

No garage or other accessory building larger than 35 sq.ft. (i.e. 5' X 7') in total floor area shall be located in a required front yard. When located to the rear of the main building, and separate there from, the accessory building set back may be reduced to not less than one half that required for side or rear lot lines, provided that all accessory buildings, shall meet the setback requirements of Section 5.2 from the normal high water elevation line of a body of water.

3. Required Yard Space Shall Serve Only One Lot:

No part of the yard or other open space required on any lot for any building shall be included as a part of the yard or open space similarly required for another building or lot.

4. Visibility at Corner Lots:

All corner lots shall be kept free from visual obstruction for a distance of 25 feet measured along the intersecting street lines.

5. Manufactured Housing Units:

All manufactured housing units to be located on a lot within the Town of Dayton shall be manufactured after June 5, 1976, and the Planning Board shall regulate and enforce this Ordinance.

6. Setback Verification:

In all cases where a proposed building will be located within two times the required front yard, side yard, or rear yard distance from a property line, public road sideline, or private road sideline, upon placement of the foundation footings and before further construction may proceed, the building site shall be examined by a Professional Land Surveyor in order to verify that all setback requirements will be met.

ARTICLE 6 - PERFORMANCE STANDARD

- 6.1 General**
- 6.2 Access to Lots**
- 6.3 Air Emissions**
- 6.4 Buffer Areas**
- 6.5 Explosive Materials**
- 6.6 Glare**
- 6.7 Landscaping**
- 6.8 Noise**
- 6.9 Off-Street Parking and Loading**
- 6.10 Refuse Disposal**
- 6.11 Road Construction**
- 6.12 Sanitary Provisions**
- 6.13 Signs**
- 6.14 Storm Water Run-Off**
- 6.15 Erosion and Sedimentation Control**
- 6.16 Setbacks and Screening**
- 6.17 Water Quality**
- 6.18 Traffic**
- 6.19 Flood Protection**
- 6.20 Soil Suitability for Construction**
- 6.21 Subsurface Sewage Disposal**
- 6.22 Other On-Site Sewage Disposal Systems**

6.1 General:

These standards shall apply to all new or expanded uses of land and buildings, which are listed as Permitted or Conditional uses in Article 4 of this Ordinance. Prohibited uses include all uses which would be obnoxious or injurious because of odor, dust, smoke, refuse matter, fumes, noise, vibration or waste materials, or which would be dangerous to the health or safety of the community or to the community's disturbance or annoyance, notwithstanding any other provisions of this Ordinance and applicable State and Federal laws and regulations. Plans for the effective control and/or elimination of same shall be presented to the Planning Board for approval. When the effects of use are uncertain, the Code Enforcement Officer, after prior notification to and at the expense of the applicant, shall employ such independent recognized consultant as necessary to ensure compliance with all requirements of this Code specifically related to the public health, safety and welfare and the abatement of nuisances. The estimated costs of such studies shall be deposited with the Town Clerk prior to their undertaking.

6.2 Access to Lots:

- A. No building permit shall be issued to erect any structure on a lot without frontage on a public way unless an access road meeting the following criteria has been constructed within a deeded right-of-way, a minimum of fifty feet in width. The access road shall be

constructed to a minimum width of twelve feet if serving one dwelling unit, and twenty (20) feet if serving two or three dwelling units. The access road shall contain a minimum depth of fifteen inches of bank run gravel and have drainage ditches and culverts at all appropriate points. Such an access road shall serve no more than three dwelling units. Any access road serving between four and eight dwelling units shall meet the road design and construction standards of the Dayton Planning Board Standards for reviewing land subdivisions.

- B. The maintenance of the easement associated with back lots shall be the responsibility of those person(s) requiring the use of that easement for access. The maintenance requirement shall be stated in the deed granting the access easement.
- C. All dead end traveled ways serving two (2) or more lots must install a turn-around suitable for emergency vehicles
- D. All lots must meet the dimensional requirements of article 5

6.3 Air Emissions:

No emission of dust, ash, smoke or other particulate matter which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, or which can cause soiling beyond the property boundaries, is permitted which is composed of solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air at the point of emissions from a chimney stack. The emission of non-farming, odorous matter in such quantities, as determined by the C.E.O., to be offensive at the lot boundaries is prohibited.

6.4 Buffer Areas:

No industrial or commercial buildings or uses shall abut a residential use, unless a landscaped buffer strip is provided to visually screen the uses. Where no natural vegetation can be maintained, or due to varying site conditions the landscaping may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: Loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, and waste collection and disposal areas. Where a potential safety hazard to small children would exist, physical screening /barriers shall be used to deter entry to such premises. The buffer areas shall be maintained and vegetation replaced to insure continuous year round screening.

6.5 Explosive Materials:

No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, unless they are located at least 75 feet from any lot line, town way, or interior roadway. For underground storage of the above materials, the minimum setback distance shall be 50 feet. All materials shall be stored in a manner and location which is in compliance with

appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

6.6 Glare:

Lighting may be used which serves security, safety and operational needs but does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings. direct or indirect illumination shall not exceed 0.5 foot-candles upon abutting residential properties.

6.7 Landscaping:

The landscape shall be preserved in its natural state insofar as practical, by minimizing tree removal and grade changes in keeping with the general appearance of neighboring developed areas. Landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses. All parking lots shall be landscaped along the property boundaries with shrubbery, trees and other landscape materials. Large parking lots shall provide a 2 ½ " caliper shade tree per 20 parking spaces (6 trees per acre) located at representative points throughout the lot.

6.8 Noise.

Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume (please refer to table below). The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this ordinance shall be as established by the time period and type of land use listed below. Sound pressure levels shall be measured on a sound level meter at all major lot lines of the proposed site, at a height of at least four (4) feet above the ground surface.

Sound Pressure Level Limits
(Measured in dB (a) scale)

7 a.m.-10 p.m.

55

10 p.m.-7 a.m.

45

On a site abutting any residential use, construction activities occurring between 8 p.m. and 7 a.m. shall be subject to the maximum permissible sound level specified for industrial establishments.

1. Noises created by all agricultural, excavation, construction and maintenance activities between 7:00 a.m. and 8:00 p.m.
2. The noises of safety signals, warning devices, and emergency pressure relief valves and any other emergency activity.

3. Traffic noise on public roads, or noise created by airplanes and railroads.

6.9. Off-Street Parking and Loading:

A. General.

1. A permitted use in any district shall not be extended, and no structure shall be constructed or enlarged, unless off-street automobile parking space is provided in accordance with the following requirements.
2. Parking areas with more than two parking spaces shall be arranged so that it is not necessary for vehicles to back into the street.
3. Each off-street parking area shall have no more than two openings onto the same street, each opening not to exceed 26 feet in width.
4. Required off-street parking for all land uses shall be located on the same lot as the principal building or facility
5. Off-street parking and loading spaces for non-residential uses, where not enclosed within building, shall be effectively screened from view by a continuous landscaped area not less than six feet in height, unless waived by the Planning Board for expressed reasons, along exterior lot lines adjacent to residential properties and all public roads, except that driveways shall be kept open to provide visibility for entering and leaving. No off-street parking and loading shall be permitted within the front setback or any setback adjoining a public street, except as specifically authorized in this ordinance.
6. The joint use of a parking facility by two or more principal buildings or uses may be approved as an administrative appeal by the Board of Appeals where it is clearly demonstrated that said parking facilities would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of such establishments.
7. Parking spaces shall be provided as required and made available for use prior to the issuance of the Certificate of Occupancy.

B. Additional Requirements for Commercial and Industrial Establishments.

1. Access points from a public road to commercial and industrial operations shall be so located as to minimize traffic congestion and to avoid generating traffic on local access streets of a primarily residential character.
2. All parking areas, driveways and other areas serving 10 or more vehicles shall either be paved with bituminous concrete or an equivalent surfacing over a gravel sub-base at

least 6” in thickness, or have a gravel surface at least 12” in thickness and shall have appropriate bumper or wheel guards where needed.

3. All driveway entrances and exits shall be kept free from visual obstructions higher than three (3) feet above street level for a distance of 25 feet measured along the intersecting driveway and street lines in order to provide visibility for entering and leaving vehicles.
4. Loading facilities shall be located entirely on the same lot as the building or use to be served so that vehicles and containers shall not be located for loading or storage upon any town way.
5. The following minimum off-street loading bays or berths shall be provided and maintained in the case of new construction, alterations, and changes of use:

Retail, office, consumer services, wholesale, warehouse and industrial operations with a gross floor area of more than 5,000 square feet require the following:

5,001	to	20,000 sq. ft.		1 bay
20,001	to	50,000 sq. ft.		2 bays
50,001	to	100,000 sq. ft.		3 bays
100,001	to	150,000 sq. ft.		4 bays
150,001	to	300,000 sq. ft.		5 bays

Each 150,000 square feet over 300,000 square feet requires 1 additional bay. No loading docks shall be on any street frontage. Provisions for handling all freight shall be on those sides of any buildings which do not face on any street or proposed streets.

C. Parking Lot Design Criteria (Not applicable to single family dwellings and duplexes).

1. Vehicular Entrance and Exit.

Entrances and exits should be clearly identified by the use of signs, curb cuts, and landscaping.

Entrance/exit design should be in conformance with the standards of the Maine Department of Transportation traffic personnel for size, location, sight-distance, grade separation, and possible future changes in highway alignment on any affected public roads.

2. Interior Vehicular Circulation.

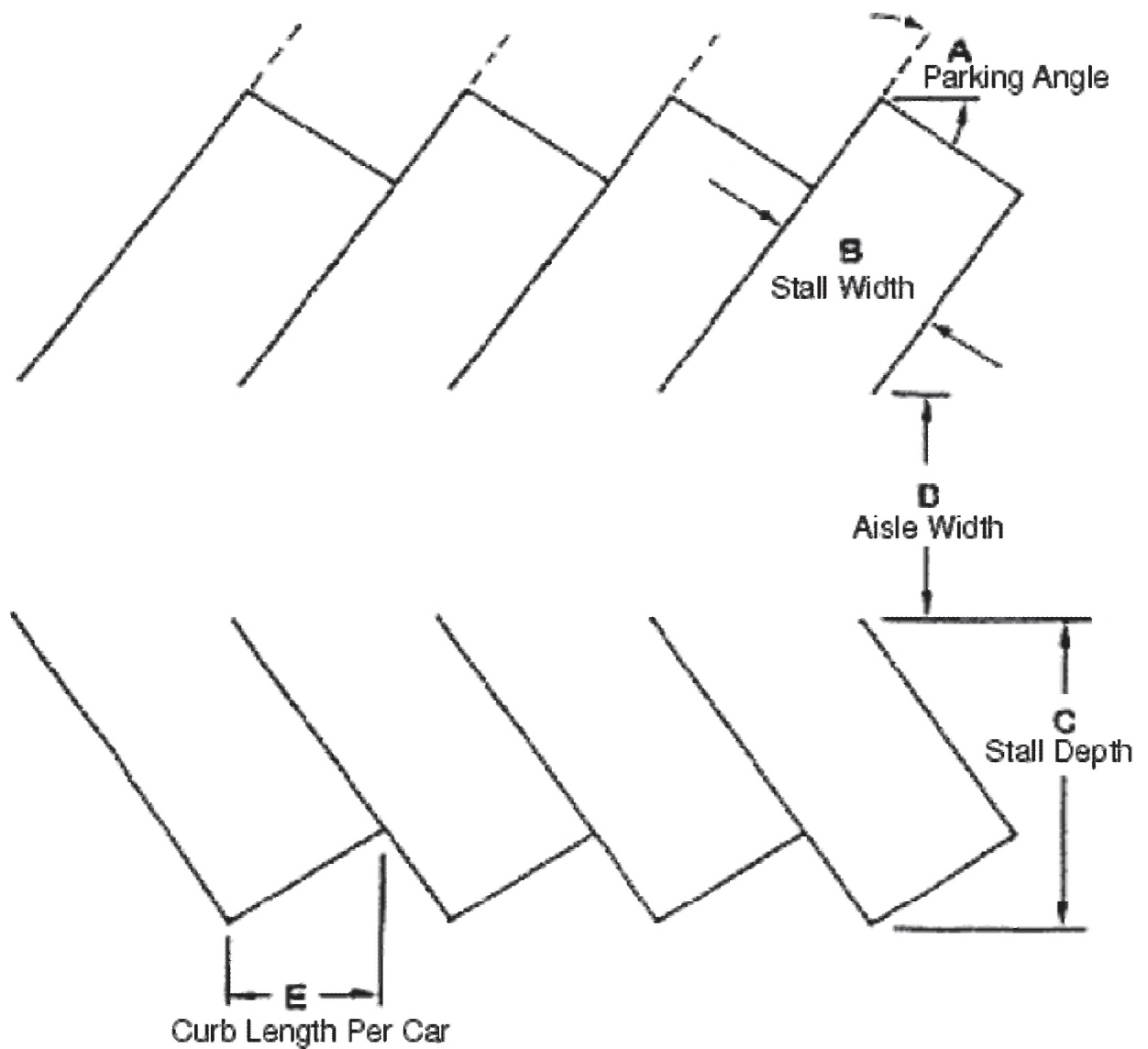
- a. Major interior travel lanes should be designed to allow continuous and uninterrupted traffic movement.
- b. Enclosures, such as guardrails, curbs, fences, walls, and landscaping, should be used to identify circulation patterns of parking areas and to restrict driving

movements diagonally across parking aisles, but not to reduce visibility of oncoming pedestrians and vehicles.

3. Parking

- a. Access to parking stalls should not be from major interior travel lanes, and shall not be immediately accessible from any public way.
- b. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles
- c. Parking aisles should be oriented perpendicular to stores or businesses for easy pedestrian access and visibility.
- d. All parking spaces and access drives shall be at least five (5) feet from any side or rear lot line, except for the additional requirements in buffer yards.
- e. Parking stalls and aisle layout shall conform to the below standards.

Minimum Parking Space and Aisle Dimensions					
Angle	Type	Stall width	Stall depth	Aisle width	Curb length
A		B	C	D	E
0	Compact	8.0	8.0	12.0	22.0
	Standard	9.0	9.0	12.0	22.0
45	Compact	8.0	19.1	14.0	11.3
	Standard	9.0	19.8	13.0	12.7
60	Compact	8.0	20.4	19.0	9.2
	Standard	9.0	21.8	18.0	10.4
70	Compact	8.0	20.6	20.0	8.5
	Standard	9.0	21.0	19.0	9.6
90	Compact	7.5	15.0	24.0	7.5
	Standard	9.0	20.0	24.0	9.0



- f. In paved parking areas painted stripes should be used to delineate parking stalls. Stripes should be a minimum of 4" in width. Where double lines are used, they should be separated a minimum of 1'0" on center
- g In aisles utilizing diagonal parking, arrows should be painted on the pavement to indicate proper traffic flow.
- h. Bumper and/or wheel stops should be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.

- i. Parking spaces shall be provided to conform with the number required in the following schedule.

Activity	Minimum required parking
Residential	
with 2 or more bedrooms	2 spaces per dwelling unit
with 1 bedroom	1 ½ spaces per dwelling unit
Elderly housing	1 space per dwelling unit
Tourist home, boarding, lodging house, motel, hotel, inn	1 space per room/unit rental and for each employee on the largest shift
Church, Chapel	1 space per three seats based upon max. seating capacity
Schools	
primary	1.5 spaces per classroom
secondary	8 spaces per classroom
post-secondary	1 space for each student and 1 space for each faculty and staff member
Child care facility	1 space for every 4 children facility is licensed to care for
Private clubs or lodges	1 space per every seventy-five (75) square feet of floor space
Theatre, auditoria, public assembly	1 space per three seats based upon max. seating
Funeral homes	1 space for every 100 feet of floor space
Medical care facilities	1 space for every three (3) beds and every two (2) employees on the maximum working shift
Offices, Banks	1 space for every 150 sq. ft. of floor space
Medical offices (MD's, DO's Dentists)	10 spaces for each doctor, dentist, or other medical practitioner.
Veterinarian clinic, kennel	5 spaces/veterinarian
Retail and service businesses	1 space for every 150 sq. ft. of floor space

Barber/beauty shop	4 spaces/chair
Restaurant	1 space per three seats based upon max. seating capacity
Industrial Businesses	1 space/employee on the maximum working shift
Warehouse, wholesale	1 space/500 sq.ft. floor area business
Flea market	3 spaces/table
Mixed Use	Total of individual uses
Automobile repair garages and gasoline filling stations	5 spaces for each bay or area used for repair work
Library, museum, art gallery	1 space for each 150 sq. ft. of floor space
Marina	1 space for each boat slip and mooring.
Commercial recreation facility, fitness spa	1 space for each 100 sq. ft. of floor area

NOTES

1. Where the calculation of the aforementioned parking spaces results in a fractional part of a complete parking space, the parking spaces required shall be construed to be the next highest number.
2. The above are minimum standards, and additional parking spaces shall be required if these prove to be inadequate.
3. Where floor space is to be used in calculating the number of required parking stalls, gross floor space shall be used unless otherwise noted.

6.10 Refuse disposal:

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The Planning Board shall consider the impact of particular industrial or chemical wastes or by-products upon the town's facilities (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable State and Federal regulations. The Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

6.11 Road Construction:

- A. Roads shall be located, constructed, and maintained in such a manner that minimal erosion hazard results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.
- B. Additionally, all roads constructed shall conform with the following standards
 - 1. Road crossings of water courses shall be kept to the minimum number necessary
 - 2. Bottoms of culverts shall be installed at streambed elevation;
 - 3. All cut and fill banks, and areas of exposed mineral soil shall be revegetated or otherwise stabilized as soon as possible; and
 - 4. Bridges or culverts of adequate size and design shall be provided for all road crossings of water courses which are to be used when surface waters are unfrozen. The requirement for a bridge or culvert may be waived by obtaining a permit from the Planning Board.

6.12 Sanitary Provisions:

- A. The approval of building permit applications shall be subject to presentation of a completed site evaluation form (HHH-200) which evidences adequate soil conditions for sewage disposal.
- B. When two or more lots or buildings in different ownership share a common subsurface disposal system, the system shall be owned and maintained in common by an owners association. Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

6.13 Signs:

- A. Residential signs are permitted and may be used to convey the inhabitants' names, the property name, and safety and caution messages. Such signs shall not be placed on the roof of the building and shall be no larger than two square feet.
- B. Rental vacancies may be advertised with a non-illuminated sign no larger than two square feet. Such sign shall be erected only during such times as the rental property is vacant.
- C. The sale of real estate may be advertised by non-illuminated temporary signs, no larger than six square feet in area. Each broker or person advertising the sale shall be permitted only one sign on any premises. All such signs shall be removed upon the signing of the contract for the premises.

- D. Educational and religious uses may display one non-illuminated sign for each building. No such sign shall be larger than twenty square feet in area.
- E. On each premises there is permitted one sign affixed to the exterior of a building for each occupancy therein.
- F. No sign shall have a signboard area (or display area, if no signboard) exceeding twenty square feet. The gross area is the measure of the area within a line connecting and completely enclosing the extreme most points of the sign.
- G. Commercial signs:
 - 1. Signs shall relate to the premises on which they are located and shall only identify the occupant of such premises or advertise the service available within said premises. There shall be no temporary promotion signs, banners, streamers or placards erected, suspended posted or affixed in any manner outdoors or on the building exterior of premises except as provided in this Ordinance. Product advertising is prohibited except where the product is generic to the business.
 - 2. Free-standing signs are limited in number to one per building, except that, where one occupant occupies more than one building per lot or a combination of lots mutually adjoining and in common ownership, only one free-standing sign shall be permitted. The top edge of any such free-standing sign shall not be higher than sixteen feet vertical measure above the grade of the street nearest the sign support(s). For traffic safety, where vision may be obscured entering a public street, the whole of the sign board or display elements of any free-standing sign shall be either below three feet in height or above ten feet in height above the street grade. A free-standing sign may be located in the front yard space, but shall not be closer than ten feet to the street right-of-way, and be no closer than twelve feet to either of the side lot lines. Where an existing principal building is within fifteen feet of the street right-of-way, a free-standing sign may be located within ten feet of the street right-of-way.
- H. Illumination of Signs:
 - a. No sign shall be illuminated with flashing, moving, or animated-type lights.
 - b. Illuminated signs shall be illuminated with white lights.
 - c. All internally illuminated signs shall have a dark background with light lettering or figures, to reduce glare.
- I. The above regulations shall not apply to the following:
 - a. Flags and insignia of any government

- b. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
 - c. Integral decorative or architectural features of buildings except letters, trademarks, moving parts, or moving or flashing lights.
 - d. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- J. Temporary signs for special events may be posted in any district upon written permit from the code enforcement officer. The code enforcement officer shall only grant such a permit after presentation of evidence that the authorities controlling the proposed location of the sign have approved its posting. A temporary sign shall be posted for a period not to exceed twenty days. The applicant shall remove said signs upon termination of the permit.

6.14 Storm Water Runoff:

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. 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 storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

6.15 Erosion and Sedimentation Control:

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following "best management" practices:

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also 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:
 - a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches
 - c. Permanent stabilization structures such as retaining walls or rip-rap
2. 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.

3. 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.
4. Any exposed ground area shall be temporarily or permanently stabilized within (1) week from the time it was last actively worked, by use of riprap, sod, seed, mulch, or other effective measures. In all cases permanent stabilization shall occur within (9) months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to avoid filtration into the water. Such measures may include the use of staked hay bales and/or silt fences.
5. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (sand pits, etc.) shall not be permitted within 100' of any property line.
6. During grading operations, methods of dust control shall be employed.

6.16 Setbacks and Screening:

Exposed storage areas, exposed machinery installation, sand and gravel extraction operations, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse, shall have sufficient setback and screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses and surrounding properties. (Such as a dense evergreen hedge, 6 feet or more in height). Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.

6.17 Water Quality:

All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes and biodegradable raw materials, products and any other materials (except manure, unsalted sand and gravel, and logs and sawn lumber), as well as waste collection and disposal facilities, shall be located on impervious pavement, and shall be completely enclosed by an approved safety fence at least 6 feet in height. Such fence shall be set on top of an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 25 year storm, so that such liquid shall not

be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for "home heating oil" and diesel fuel, not exceeding 275 gallons in size, may be exempted from this requirement, in situations where neither a high seasonal water table(within 15" of the surface) nor rapidly permeable sandy soils are involved."

6.18 Traffic:

Proposed developments shall provide for safe access and egress to roads. Safe access shall be assured by providing an adequate number and location of access/egress points with respect to sight distances, intersections, and other traffic generators. The proposed development shall not have an unreasonable impact on local roads by degrading the levels of service and shall assure safe interior circulation patterns. Access/egress points shall be designed in accordance with the following safe sight distances:

<u>Speed Limit</u>	<u>Recommended</u>	<u>Minimum</u>
25 mph	250'	175'
30 mph	300'	210'
35 mph	350'	245'
40 mph	400'	280'
45 mph	450'	315'
50 mph	500'	350'
55 mph	550'	385'

6.19 Flood Protection, (revised 6/13/81):

In order to minimize flood damage to persons and property, no fill or structure shall be placed in areas subject to periodic flooding, including areas of special flood hazard which are defined as those areas having a one percent or greater chance of flooding in any given year. These areas are identified in a report entitled "Flood Insurance Study - Town of Dayton in the County of York Maine" with accompanying "Flood Insurance Rate Map" and "Flood Boundary and Floodway Map", dated June 1, 1981, which is hereby adopted by reference and declared to be part of this Ordinance.

Enlargement of existing residential structures already situated in special flood hazard areas shall be so constructed that the lowest flood, including the basement, is elevated to or above the base flood elevation. Base flood elevation is the flood elevation having a one percent chance of being equaled or exceeded in any given year.

Construction material and utility equipment shall be resistant to flood damage. Enlargement of non-residential structures shall be so constructed that the lowest floor is elevated to or above the base flood elevation, or shall be flood proofed in accordance with designs certified by a Registered Professional Engineer to be water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

All enlargements of existing structures shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any water course.

6.20 Soil Suitability for Construction:

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.

6.21 Subsurface Sewage Disposal:

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

6.22 Other On-Site Sewage Disposal Systems:

Other systems of sanitary waste disposal may be permitted in all Districts as a Conditional Use only after approval by the Planning Board and the Department of Human Services:

1. Alternative systems shall be presented to the Planning Board on a plan prepared by a Professional Engineer registered in the State of Maine and shall be subject to review and approval of the Maine Department of Environmental Protection and/or the Maine Department of Human Services.
2. Proposed discharge of sanitary wastes to any water body shall be subject to the issuance of State of Maine Department of Environmental Protection licensed; further, no such off-site discharge shall be allowed unless same is buried or not visible to a point below normal low water, and is secured against damage and uncovering by the tides, erosion or other foreseeable action.

ARTICLE VII: PERFORMANCE STANDARDS, SPECIFIC ACTIVITIES AND LAND USES:

7.1	Amusement centers
7.2	Bed and Breakfast
7.3	Campgrounds and Tenting Grounds
7.4	Individual Private Campsites
7.5	Agriculture
7.6	Commercial Recreation Facility
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7.10	Hotels Motels Inns
7.11	Kennels and Veterinary Hospitals
7.12	Manufactured Housing
7.13	Mobile Home Parks
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7.15	Restaurants
7.16	Schools Colleges, Churches Fraternal Organizations, and Not for Profit Clubs
7.17	Planned Unit Development, and Cluster Development
7.18	Accessory Dwelling Units (ADU)
7.19	Watercourse Alteration or Relocation
7.20	Parking Areas
7.21	Roads and Driveways
7.22	Essential Services
7.23	Clearing or Removal of Vegetation for Activities Other than Timber Harvesting
7.24	Hazard Trees, Storm Damaged Trees, Dead Tree Removal
7.25	Exemptions to Clearing and Vegetation Removal Requirements
7.26	Revegetation Requirements
7.27	Archaeological Sites

7.1 Amusement Centers:

- A. In addition to the automobile parking spaces required in Section 6.9, all amusement centers shall provide facilities for the parking of bicycles. Bicycle racks shall be located off the sidewalk or other pedestrian way, and away from automobile traffic lanes. A minimum of one bicycle space for every two amusement devices shall be provided.
- B. Restroom facilities for the patrons shall be provided on the premises.

7.2 Bed and Breakfast:

- A. The application for approval as a conditional use shall include a scale drawing of the lot showing the location of: existing buildings, existing and proposed parking, and existing and proposed sewage disposal systems.
- B. There shall be no less than one parking space for each rental room in addition to the spaces required for the dwelling unit.
- C. There shall be one bathroom provided for every five rental rooms, in addition to the toilet facilities for the dwelling unit.
- D. Each rental room shall be not less than ten by twelve feet horizontal dimensions.
- E. There shall be a smoke detector installed in each rental room.

7.3 Campgrounds and Tenting Grounds:

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following (in case of possible conflict, the stricter shall apply)

A. General:

- 1. A campground must be constructed on at least 10 acres of land, and all camping units or structures shall be located at least 200 feet from any residence (except residences belonging to the campground owners). Within the shoreland zone, campgrounds shall contain a minimum of 5,000 square feet of land, including roads and driveways, for each site.
- 2. Campsites shall be laid out and screened in such a manner that none are within view from public roads, navigable rivers, existing residences or approved subdivision lots. Any combination of evergreen planting, landscaped earthen berms, or solid fencing may be used to achieve this screening standard, when campsites would otherwise be visible from the locations described above.
- 3. No house trailers other than recreational vehicles as defined herein, shall be permitted within any campground, temporarily or otherwise. No camping unit shall be stored or exhibited for sale for commercial purposes within the park.
- 4. Tent sites and sites for recreational vehicles (RV's) shall be laid out so that the density of each developed acre of land does not exceed the standards below (in terms of sites per acre of land, excluding circulation roads):

Tent sites	14 per acre
RV sites	11 per acre

- 5 Minimum frontage along any shoreline shall be 100 feet. Minimum setback from the shoreline shall be 100 feet for all recreational vehicles, tents, or other vehicles and temporary or permanent structures.

B. Parking and Circulation:

1. A minimum of three hundred square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site. Recreational vehicles shall be parked in spaces so that:
 - a. There shall be a minimum of 25 feet between vehicles; and
 - b. There shall be a minimum of 45 feet between all recreational vehicles and tents, and all public rights-of-way located inside the boundaries of the campground.
2. Vehicular access shall be provided onto a hard-surfaced road adequate for the volume and type of traffic likely to be generated. Grades and sight distances specified in the town's subdivision regulations shall be observed in designing all intersections. Roads shall be constructed of at least 12" of bank-run gravel (no stone larger than 4"), 2" of crushed gravel (3/4 inch chips) and adequate dust control methods shall be employed. The minimum width of roadway shall be twelve feet for one way roads and twenty two feet for two way traffic. No vehicle parking shall be permitted on the roadway.

C. Health and Safety:

1. Each recreational vehicle, tent, or shelter site shall be provided with picnic table and trash receptacle. The park management shall dispose of refuse from said containers by transporting the refuse in a closed truck or in enclosed containers or bags to an approved disposal area at least once a day.
2. A campground shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Wastewater Disposal Rules. In no case shall less than one toilet and lavatory be provided for each sex for every ten camping and tent sites. All recreational vehicle sites shall be equipped with water hook-ups.
3. Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations. 24 hour emergency communication service (e.g. telephones) shall be provided.

4. Each campsite shall be provided with a masonry or metal fireplace, approved writing by the Fire Chief.

D. Planning and Review.

1. Roads, parking, campsites and required facilities shall be planned in accordance with the basic principles outlined below, and shall be shown on the proposed plan which is submitted for review and approval as a Conditional Use:
 - a. A logical sequence of entry and circulation should be created: entrance, administration and storage, parking, campsites, toilets and laundry, playing fields or shoreline.
 - b. Campsites should be clustered in groups according to intensity of use (low density, medium density, etc.) and also related to common support service areas (laundries, play areas, etc.) serving a number of campsite clusters. The purpose is to minimize road length, increase accessibility, and to preserve open space.
 - c. Footpaths and roads should follow “desire lines” of pedestrian and vehicular movement between campsites and all jointly used facilities.
 - d. Access roads shall be laid out as loops to the greatest extent that is practicable, although “cul-de-sacs” or “dead –ends” may be allowed to serve up to twenty campsites.
2. A soil erosion and sedimentation control plan meeting the standards of the York County Soil and Water Conservation District shall be submitted. In addition to data on soils, slopes and drainage, a vegetation map showing the following items may be required;
 - a. The major types of vegetation should be identified and described (as to age, height, openness or density, and pattern, either natural or reforested)
 - b. New planting should be selected to provide screening and shelter, to tolerate existing and proposed site conditions, and to blend compatible with existing natural vegetation.
 - c. All vegetative clearing should avoid creating straight line edges between open lands and surviving stands.
 - d. Areas of activity and/or traffic should be sited to avoid wildlife areas (such as thickets for birds and small mammals, or deer yards and trails).

7.4 Individual Private Campsites:

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

- a. One campsite per lot existing on the effective date of this Ordinance, or 30,000 square feet of lot area within the Shoreland Overlay, Saco River Overlay District, and Resource Protection Districts, whichever is less, may be permitted.
- b. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- c. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland.
- d. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- 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 Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- g. When a recreational vehicle, tent or similar shelter is placed on-site for more than 20 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.

7.5 Agriculture:

1. All storage or spreading of manure in the shoreland zone shall be accomplished in conformance with the Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001 and the Nutrient Management Law (7 M.R.S.A. Sections 4201-4209).
2. 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

freshwater wetlands. Operations in existence on the effective date of this paragraph and not in conformance with this provision may be maintained.

3. Agricultural practices, including the creation of fire ponds, shall be conducted to minimize soil erosion, sedimentation, contamination, and nutrient enrichment of ground and surface waters. There shall be no direct discharge of field or pasture run-off into any navigable waterway or great pond. Control measures should be designed, when ever possible, in accordance with conservation plans designed by the Soil Conservation Service or the "Environmental Quality Handbook". Measures should include, where appropriate:
 - a. Cross slope tillage and row-cropping of the area within 250 feet of normal high water elevation of the surface water areas protected by the Saco River Corridor Commission.
 - b. Diversions above cropland fields to reduce run-off water entering such field,
 - c. Terracing and/or strip-cropping on moderate or steep slopes (over 8%).
 - d. Crop rotation and cover crops to prevent soil erosion.
 - e. Careful application of fertilizers and pesticides in accordance with application rates recommended by the Extension Service.
4. The following additional provisions shall apply within the Shoreland Overlay and Resource Protection Districts only:
 - a. Manure shall not be stored or stockpiled within (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. Manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
 - b. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, or the spreading, disposal or storage of manure shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
 - c. Newly established livestock grazing areas shall not be permitted within (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance of other water bodies, nor; within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

7.6 Commercial Recreational Facility:

Commercial recreation activities may be established as a conditional use in those districts indicated on the Land Use Table and in accordance with the provisions below:

- A. There will be provided adequate off—street parking for the anticipated maximum attendance at any event.
- B. Containers and facilities for rubbish collection and removal will be provided.
- C. Adequate screening, buffer area, or landscape provisions will be built, planted, or maintained, to protect adjacent residences from adverse noise, light, dust, smoke, and visual impact.
- D. The proposed use will not create a traffic hazard.

7.7 Earth Material Removal:

A. New Operations;

- 1. Filling, grading, lagooning, dredging, excavation, processing and storage of soil, earth, loam, sand, gravel, rock and ledge, peat, or any other mineral or organic deposits, which would result in erosion, sedimentation, or impairment of water quality or fish and aquatic life, is prohibited except with a Conditional Use Permit issued by the Planning Board under a Conditional Use Permit as herein after provided
- 2. Nothing herein shall be deemed to apply to normal excavation operations incidental to construction activities for which a valid permit is held. The Planning Board may waive any or all of the following requirements when less than 25 cubic yards of earth material within any time period is proposed to be removed, screened or stored. Normal agricultural operations, including creation of fire ponds, shall not be considered as "earth material removal".
- 3. Applications to the Planning Board for a Conditional Use Permit for the excavation, screening or storage of soil (including topsoil), peat, loam sand, gravel, rock or other mineral deposits shall be accompanied by a plan prepared according to Planning Board specifications and in compliance with applicable State Laws, and accompanied by all required State Permits or licenses.
- 4. 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 Section 7. 6 .4 below.
 - a. The applicant shall submit to the Code Enforcement Officer plans of the proposed extraction site showing the property lines and names of abutting owners and ways, indicating by not greater than five (5) foot contour intervals related to U.S. Geodetic Survey data, the location and slope of the grades existing and as

proposed upon completion of the extraction operation, and detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits, together with a written statement of the proposed method, regularity, working hours, and total proposed rehabilitation and restoration on the site upon completion of the operation.

- b. The Board may require the additional submission of a hydro geologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.
 - c. Said plans and statement shall be submitted with recommendations of the Code Enforcement Officer to the Planning Board for its consideration with respect to the effect of the proposed operations upon existing and foreseeable traffic patterns within the town, upon existing or approved land uses which may be affected by the operation, and implementation of comprehensive plan policies. The Planning Board may recommend changes to the applicant for resubmission to the Planning Board.
 - d. The Planning Board shall render a written decision specifying whether, and under what conditions, the proposed operation would be permitted. The Planning Board may require filing with the Town Clerk a commercial surety bond, a certified check, or a savings account passbook payable to the Town in such amount and upon such conditions as the Planning Board may determine to be adequate to indemnify the Town against any claims arising from the proposed operation and to assure satisfactory performance of all conditions imposed or otherwise applicable.
5. The Planning Board shall specify such requirements in any Conditional Use Permit issued for earth material removal as it deems necessary or desirable to assure compliance with the following requirements:
- a. No part of any extraction operation shall be permitted within 100 feet of any property or street line in the Forest, Fields, or C.R. zones or within 200 feet of any property or street line in the Mixed Use Zone and within 300 feet of any property or street line in the Village Districts except that drainage ways to reduce run-off into or from the extraction area may be allowed up to 100 feet of such line and except that the above stated setbacks may be reduced and/or eliminated upon written approval of the butting owner. No part of any extraction operation, including drainage and runoff control features shall be permitted within 75 feet horizontal distance of the normal high-water line of any water body, tributary stream, or the upland edge of a wetland. Natural vegetation shall be left and maintained on the undisturbed land.
 - b. If any standing water accumulates, the site must be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of insects.

- c. At any extraction operation site when deemed necessary by the Planning Board, the applicant shall erect or construct fencing at least four (4) feet in height to insure the safety of residents. Fencing must be complete before extraction begins.
- d. Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operations. Bonding may be required by the Planning Board to insure compliance with set standards.
- e. Any topsoil and subsoil suitable for the purposes of revegetation shall to the extent required for restoration be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this section.
- f. Sediment shall be trapped by diversions, silting basins, terraces, and other measures designed by a Professional Engineer or by the U.S. Soil Conservation Service.
- g. The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.
- h. Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources and Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.
- i. The hours of operation at any extraction site shall be limited as the Planning Board deems advisable to ensure the operational compatibility with residents of the Town.
- j. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Road Commissioner. No mud, soil, sand or other material shall be allowed to accumulate on a public road from loading or hauling vehicles.
- k. All access/egress roads leading to/from the extraction site to public ways shall be treated with stone, calcium, or other suitable materials to reduce dust and mud for a distance of at least 100 feet from such public ways.

1. No equipment, debris, junk or other material shall be permitted on an excavation site except those directly related to active extraction operations, and any temporary shelters, or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.
- m. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, or any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the Planning Board so that:
 1. All debris, stumps, boulders, and similar materials shall be removed and disposed of in an approved location or, in the case of inorganic material, buried and covered with a minimum of two (2) feet of soil. Only materials generated on-site may be buried or covered on-site.
 2. The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type of fill to be used.
 3. Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
 4. At least four (4) inches of topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be reseeded with perennial grass and properly restored to a stable condition.
 5. No slopes steeper than two and one-half foot horizontal to one (1) foot vertical (2 ½:1) shall be permitted at any extraction site.
- n. All existing gravel pits, entrances and exits, shall be closed to unauthorized access.

B. Existing Operations.

1. Any operation involving the excavation, processing, or storage of soil, earth, loam, sand, gravel, rock or other mineral deposits in lawful operation at the time this Section becomes effective, and which meet the criteria for requiring a Conditional Use Permit, may operate for a period of five years from the effective date without Planning Board approval. Existing operations, however, must submit to the Planning Board within ninety (90) days of the effective date of this Section, a map indicating the area within which earth removal activity is anticipated within the five year period, and the area which has already been subject to earth removal activity. Failure to submit the above map within ninety days shall result in the loss of grandfathered

status for that operation. Within fifteen (15) days of the effective date of this Section, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of his knowledge, contain existing operations, informing them of the requirements of this section.

2. Discontinuation of any existing operation for a period of more than one year shall result in the loss of grandfathered status for that operation. Discontinuation is defined as being the excavation, processing or storage of less than twenty-five cubic yards of material.

7.8 Home Occupations:

A home occupation shall be permitted if it complies with all of the requirements of this section:

- A. Home occupations shall be carried on wholly within the principal building
- B. Not more than two persons outside the family shall be employed in the home occupations.
- C. A home occupation may not alter the residential character of the structure, neighborhood or change the character of the lot from its principal use as a residence.
- D. Exterior display shall be limited to a total of two (2) samples or models of products sold or manufactured on premises. Exterior storage of materials and any other exterior evidence of the home occupation shall be so located or screened so as not to detract from the residential character of the principal building. Signs shall be permitted only as provided for under Section 6.13 of this Ordinance.
- E. A home occupation shall not create greater traffic than normal for the area it is located in or generate more than 20 vehicle trips /day.
- F. The sale of products shall be limited to those which are crafted, assembled, or substantially altered on the premises, to catalog items off the premises by customers and to items which are accessory and incidental to a service which is provided on the premises

7.9 Ground Water and or Spring Water Extraction and/or Storage:

- A. Permit Required:

Ground water or spring water may be extracted and/or bulk stored as part of a commercial or industrial that withdraws 3,000 gallons per day or more, or a land excavation operation where allowed under this ordinance as a Conditional Use. The

Planning Board shall grant approval if it finds that the proposal, with any reasonable conditions, will conform to the requirements of this section.

B. Submission Requirements. The application together with site plan shall include the following information:

1. Statement of the quantity of ground water to be extracted, expressed as the annual total, the maximum monthly rate by month, and the maximum daily rate;
2. A letter from the Maine Department of Human Services approving the facility as proposed where the Department has jurisdiction over the proposal;
3. Where appropriate, letters from the Department of Environmental Protection when the Site Location Law is applicable or a discharge permit is required.
4. Applicants shall present a written report of a hydro geologic investigation conducted by a certified professional geologist or registered professional engineer, except for spring water extraction facilities which meet the following conditions: the spring enhancement will not increase the combined spring catchment's capacity by removing more than four (4) cubic yards of earth and not increase this spring's depth by more than four (4) feet, where the discharge drain is no lower than the existing spring water level, where gravity alone (without the aid of a siphon) is used to withdraw the spring water to other facilities on site, and where other improvements do not threaten ground water levels. This report shall include the following information:
 - a. A map of the aquifer tributary to the spring(s), well(s) or excavation(s) from which water is to be extracted in sufficient detail to support a calculation of sustained yield during a drought with a probability of one in ten years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.
 - b. The results of the investigation shall establish the aquifer characteristics, the rates of draw—down and rebound, the sustainable yearly, monthly (by month) and daily extraction rates, the cone of depression which may develop about the proposed facility, and other impacts on the water table in the tributary aquifer and such other private or public wells within 1,000 feet of the proposed extraction facilities shall be assessed.
 - c. Nothing in this procedure and no decision by the Planning Board shall be deemed to create groundwater rights other than those rights which the applicant may have under Maine law.

C. Performance Standards:

1. The quantity of water to be taken from ground water sources will not substantially lower the ground water table, cause salt water intrusion, cause undesirable changes in ground water flow patterns, or cause unacceptable ground subsidence, based on the conditions of a drought with a probability of occurrence of once in ten years.
2. The proposed facility will not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.
3. Safe and healthful conditions will be maintained at all times within and about the proposed use.
4. The proposed use will not cause sedimentation or erosion.
5. The proposed facility is not within the defined aquifer recharge area of a public water supply; unless notice is given to the operator thereof and the Board has considered any information supplied by the operator and finds that no adverse affect on a public water supply will result.
6. The operator shall make monthly operating records of the quantity of water extracted, stored and removed from the site available to the Code Enforcement Officer or a designee

D. Existing Operations:

1. Any operation involving the extraction of ground water or spring water in lawful operation at the time this Section becomes effective, and which meet the criteria for requiring a Conditional Use Permit, may operate for a period of five years from the effective date without Planning Board approval. Existing operations, however, must submit to the Planning Board within ninety (90) days of the effective date of this Section, a map indicating the property from which ground water is being extracted, showing the location of the extraction in relation to neighboring well, surface water bodies, and property lines. Failure to submit the above map within ninety days shall result in the loss of grandfathered status for that operation.

Within fifteen (15) days of the effective date of this Section, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of their knowledge, contain existing operations, informing them of the requirements of this section.

2. Discontinuance of any existing operation for a period of more than one year shall result in the loss of grandfathered status for that operation.

7.10 Hotels, Motels and Inns:

For traffic safety on and immediately adjoining each motel or hotel and to assure health, safety and welfare of hotel occupants and of the neighborhood generally, the following land, space, building, traffic, utility, and service design requirements shall be complied with:

- A. The minimum lot size for any motel, hotel or inn shall contain not less than three acres of total area. Access driveways into the development shall be at an angle of 90°. Driveways shall be separated by a minimum of 100 feet. The curb radius of the intersection of the driveway to public way shall be no less than 25 feet. Access and egress drives shall not exceed a slope of 2 for the first seventy five (75) feet onto the property.
- B. No part of any building on a motel lot shall be closer than seventy five feet to the front lot line, rear lot line or either side line of such lot. A green space, not less than twenty feet wide, shall be maintained open and green with grass, bushes, flowers or trees all along each side lot line, the rear lot line, the front line of such lot, except for entrance and exit driveways. The green space shall not be used for automobile parking.
- C. Buildings on a motel lot shall not cover more than fifteen percent of the area of the lot.
- D. If cooking or eating facilities are provided in motel/hotel rental units, each rental unit shall be considered a dwelling unit and the motel/hotel shall be required to meet all the standards for multifamily developments, including the residential density requirements of the appropriate district, in this ordinance.
- E. Each motel rental unit shall contain not less than two hundred square feet habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each motel rental sleeping room shall not be less than twelve by fifteen feet horizontal dimensions, exclusive of bath. Each rental unit shall include private bathroom facilities.
- F. On each motel/hotel lot, one apartment may be provided for a resident owner, manager, or other responsible staff person.
- G. Hotel building construction plans shall be reviewed and approved by the State Fire Marshall Office.
- H. Parking stalls shall be designed to accommodate the traveling public by a minimum stall width of eleven (11) feet and stall depth of twenty (20) feet for perpendicular stalls. Angled parking stall width and depths shall be increased by 10% and 25% above the standards contained in this ordinance.
- I. Water Supply. The applicant shall demonstrate the availability of adequate supply and quality of water for both domestic and firefighting purposes. The Planning Board may require the construction of fire ponds and dry hydrants.

- J. Sewage Disposal. The location of subsurface wastewater disposal systems and an equivalent reserve area for replacement systems shall be shown on the plan. The reserve areas shall be restricted so as not to be built upon. The report of a licensed Site Evaluator shall accompany the plan. If the system is an engineered system, the approval of the Division of Health Engineering shall be obtained prior to submittal of the application to the Planning Board.

7.11 Kennels and Veterinary Hospitals:

- A. Structures or pens for housing or containing the animals shall be located not less than one hundred (100) feet from the nearest residence other than the owners' existing at the time of permit.
- B. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.
- C. The owner or operator of a kennel shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.
- D. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied no less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.
- E. If outdoor dogs "runs" are created, they shall be completely fenced in, and shall be paved with cement, asphalt or a similar material to provide for cleanliness and ease of maintenance.
- F. Any incineration device for burning excrement—soaked waste papers and/or animal organs or remains shall be located a minimum distance of 400 feet from nearest residence other than the applicants, and shall have a chimney vent not less than 20 feet above the average ground elevation. The applicant shall also provide evidence that he has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator, and that it meets state standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.

- G. All other relevant performance standards in Article 6 of this ordinance shall also be observed.

7.12 Manufactured Housing:

- A. All Mobile Homes to be located on a lot within the Town of Dayton after the effective date of this Ordinance shall be manufactured after June 15, 1976.
- B. All manufactured housing units not located in a mobile home park shall have a minimum horizontal dimension of 14 feet.

7.13 Mobile Home Parks:

1. Licenses.

No person, firm or corporation shall establish or maintain a mobile home park seasonal trailer park or campground within the Town of Dayton without a license issued in conformity with the provisions of this Code. A mobile home park, seasonal trailer park, or campground existing prior to the adoption of this Code may be enlarged only if the extension complies with the terms as specified herein:

- a. Application for a mobile home park, license shall be filed with the Code Enforcement Officer who shall, in turn, present said application to the Planning Board for review as a subdivision except that applications for license renewals are not subject to Planning Board review. The Planning Board shall review plans of the proposal and approve, approve with conditions, or deny approval of the proposal on the basis of standards contained herein and as contained in the Subdivision Regulations of the Town Planning Board. The Planning Board shall inform the Code Enforcement Officer of its decision in writing and he shall act on the application.
- b. Each application for a license or a renewal thereof shall be accompanied by a fee of \$25 for a mobile home park. Each such license shall expire on the first day of April next following the date of issuance. Before any license shall be renewed, the premises shall be subject to inspection by the Health Officer and Code Enforcement Officer. If they shall find all requirements of this and other Town and State Ordinances and Laws have been complied with, they shall certify same.
- c. Such licenses shall be conspicuously posted on the premises at all times and shall not be transferable.
- d. The Planning Board is hereby authorized to revoke any license issued pursuant to the terms of this Code if, after due investigation, they determine

the holder thereof has violated any of the provisions of this or any applicable code, law or statute.

2. Mobile Home Parks:

Mobile home parks shall be constructed and installed in accordance with the following minimum standards and in accordance with every Section of this Code. Mobile home parks shall provide areas for the location and development of mobile homes, as defined in this Code.

- a. Streets. Design and construction of all mobile home park streets shall be in accordance with the specifications established in the Town Street Acceptance Code and the Planning Board Standards for Reviewing Subdivisions.
- b. Utilities. Design and construction of all utilities shall be in accordance with the specifications established in this Code. In addition, sewerage systems may be designed to collect sewage from each mobile home and dispose of it in a common septic tank disposal facility provided that the design, construction and operation of said facility are in compliance with the specifications of this Ordinance dealing with Planning Unit Developments. Water Systems shall be capable of delivering 250 gallons per day per lot.
- c. Minimum Lot Size, Frontage and Setbacks. The provisions of this Ordinance relating to Planned Unit Development shall apply (Article V, Section 5.2.E).
- d. Permanent additions shall be permitted provided they conform to all provisions of the Dayton Building Code.
- e. Buffer Strips. There shall be a minimum distance of 150 feet between mobile home lot lines and the boundaries of mobile home parks. Where no natural vegetative buffering at least fifty (50) feet wide and eight feet high exists or can be maintained in these buffer strips, such developments shall be screened from view along all boundaries visible from town roads or existing houses by a continuous landscaped area not less than 25 feet wide containing trees, shrubs, fences, walls, berms, or any combination thereof forming a visual barrier not less than 8 feet high.
- f. Refuse Disposal. Each mobile home lot shall be provided with an area for refuse storage. Within a maximum of 250 feet from each mobile home lot, there shall be a fly-tight, watertight and rodent-proof container capable of storing the amount of refuse that the mobile home for which it was designed could generate in one week. The park management shall dispose of refuse from said containers by transporting the refuse to an approved disposal area at least once a week.

- g. Fire Protection. Fire extinguishers capable of dealing with both electrical and wood fires shall be kept in all service buildings; a mobile home park shall provide suitable ingress and egress so that every mobile home may be readily serviced in emergency situations.
- h. Responsibilities of mobile home park management. The management of mobile home parks shall be responsible for operating their respective parks in accordance with all Town codes and ordinances and all State laws and regulations. The maintenance of all open space areas, roads, and utilities in a park shall be the responsibility of the park management.
- i. Responsibilities of Mobile Home Park Occupants. Mobile home park occupants shall be responsible for maintaining their mobile home lots in an orderly condition and for preventing the accumulation of refuse on such lots or under the mobile homes.
- j. Mobile home parks shall not be used as a sales lot or showroom for commercial sales of mobile homes. However, private resale of second-hand mobile homes which have been used for residential purposes within the park shall be permitted.

7.14 Multi—Family Developments & Condominiums:

- A. Multi-family developments may be approved by the Planning Board in accordance with the Land Use Table of this ordinance. All proposals to construct multi-family developments shall be in conformance with the General Performance Standards of Article VII and the design requirements listed below.
- B. Applications for approval shall include: a map of the area; dimensions, boundaries and principal elevations of the land for which approval is sought; the names of all property owners within 100 feet of the proposed site, as found on the most recent tax list; building layout and general construction plans; a site plan of all driveways and parking areas proposed to be constructed; and, other information which addresses all appropriate performance standards and design requirements and all appropriate factors to be considered in evaluating proposals.
- C. Design Requirements.
 - 1. Density:

The land area required for a multifamily development shall be based on the following formula:

 - a. For dwelling units with two bedrooms or less: The minimum lot size for the district in which the development is located is required for the first dwelling

unit. Each additional dwelling unit shall require 1/2 of the minimum lot size for the district in which the development is located.

- b. For dwelling units with three bedrooms or more: The minimum lot size for the district in which the development is located shall be required for each dwelling unit. All density calculations shall be based on net residential acreage which shall be calculated on the same basis as required for cluster developments, in Sections 7.17

2. Water Supply:

The applicant shall demonstrate the availability of adequate supply and quality of water for both domestic and firefighting purposes. The Planning Board may require the construction of fire ponds and dry hydrants.

3. Sewage Disposal:

The location of subsurface wastewater disposal systems and an equivalent reserve area for replacement systems shall be shown on the plan. The reserve areas shall be restricted so as not to be built upon. The report of a licensed Site Evaluator shall accompany the plan. If the system is an engineered system, the approval of the Division of Health Engineering shall be obtained prior to submittal of the application to the Planning Board.

- 4. It shall be the responsibility of the owner to provide for rubbish disposal, snow removal, and site maintenance. All outdoor storage areas for waste collection shall be enclosed by a wooden or masonry screen at least six feet in height. A fifty foot landscaped buffer shall be provided along all property boundaries.

- 5. Storm water and surface drainage systems shall be designed in accordance with the Dayton subdivision regulations.

6. Access, Circulation, and Parking:

- a. The proposed development shall provide for safe access to and from public or private roads. Safe access shall be assured by providing an adequate number and location of access points, with respect to sight—distances, intersections, schools, and other traffic—generators. All corner lots shall be kept clear from visual obstructions higher than three feet above ground level, for a distance of twenty— five feet, measured along the intersecting street lines.
- b. The proposed development shall not have an unreasonable adverse impact on the public road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and by providing adequate parking and turn—around areas.

- c. All developments containing fifteen or more dwelling units may be required by the Planning Board to have more than one street access (for emergency and safety purposes). No more than two accesses shall be allowed on any single street or roadway.
- 7. No building in a multifamily development constructed after March 11, 1978 shall contain more than eight dwelling units. Buildings constructed prior to March 11, 1978 may be converted to multifamily structures and may contain more than eight dwelling units, provided each such dwelling unit contains no less than 600 square feet of floor area.

7.15 Restaurants:

- A. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit
- B. A completed soil evaluation forms (HHE—200) shall be submitted. All proposed subsurface disposal systems shall meet the Maine State Subsurface Wastewater Disposal rules.
- C. All parking and loading facilities shall be located to the side or rear of the building, and shall be screened from abutting residences within 200 feet. Screening shall be comprised of a continuous landscaped area not less than eight feet in width, containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six feet in height.
- D. Restroom facilities for the patrons shall be provided on the premises.

7.16 Schools, Colleges, Churches, Fraternal Organizations, and Not for Profit Clubs:

Public and private colleges, schools, churches, fraternal organizations, and not for profit clubs shall be permitted as a conditional use in accordance with Section 9.7 and the provisions below.

- 1. A green strip, suitably landscaped, at least 20 feet wide shall be provided along all property lines, except where driveways enter and exit.
- 2. No building shall be closer than fifty feet from a property line
- 3. When adjacent to residences within 200 feet, parking areas and outdoor activity areas shall be effectively screened from view by a continuous vegetative barrier or stockade fence not less than six feet in height

7.17 Planned Unit Development, Cluster Development and Motels:

1. Purpose:

Notwithstanding other provisions of this Ordinance, the Planning Board in reviewing and approving proposed residential subdivisions may modify provisions relating to space and bulk to permit innovative approaches to housing and environment design in accordance with the standards of this Section. Such modifications of space and bulk provisions shall not be construed as granting variances to relieve hardship. The purpose of this Section shall be to encourage housing development that will result in:

- A: Preservation of open space to serve recreational and scenic purposes and to provide adequate recreation opportunities to residents.
- B. Improved living environments which offer a variety and choice in housing and permit more economical housing to be constructed
- C. A pattern of development in harmony with the natural features of the land
- D. Economical subdivision layout, efficient use of the land, with smaller networks of utilities and streets.

2. Basic Requirements.

Planned unit developments, and cluster developments and shall meet all the following criteria:

- A. The provisions of this section apply to subdivisions for single family and two-family homes in the rural forest and rural field zones.
- B. The minimum area of land in a planned unit development, or cluster development shall be 10 acres.
- C. Each building shall be an element of an overall plan for site development, which plan shall identify the location of all proposed roads, structures, parking areas, footpaths, common open space and private yard space related to individual dwelling units. Only developments having a total site plan for structures will be considered. In respect to the placement of buildings and treatment of spaces, paths, roads, service and parking the developer shall take into consideration all requirements of this section and of other relevant sections of this Ordinance.

- D. The maximum net residential density (i.e., the number of dwellings per acre, excluding roads) allowable in planned unit developments shall be calculated on the basis described in the table below. For example, in developments where sewer service is not being provided, all of the "well-drained" and "moderately well-drained" land may be included in the density calculations, plus half of the "poorly-drained" land.

Land Which May be Included as "Suitable Land" When Calculating Net Residential Density

	Excessively drained well-drained and moderately well-drained	poorly drained*	very poorly drained*	slopes greater than 33%	borrow pits
On sewer	100%	75%	40%	50%	67%
Not on sewer	100%	50%	-	-	33%

* Soil classification by U.S. Soil Conservation Service. All "poorly" and "very poorly" drained soils are unsuitable for on-site sewage disposal, under the State Plumbing Code.

- E. Overall net residential density of the development shall not exceed 2.5 acres per dwelling unit. A drawing and calculations showing the net residential acreage and density, and a drawing showing the maximum number of lots feasible under regular subdivision provisions shall be submitted. Lot size shall not be reduced to less than 1 acre. Each lot shall have a minimum frontage of 125 feet on a public road or a street proposed by the applicant.
- F. Front yard setbacks shall not be reduced by more than 50% of those specified in the district requirements. The Planning Board may reduce side and rear yard setbacks at its discretion, using the provision of adequate light, ventilation, fire safety, emergency access, and privacy as review criteria.
- G. The extent of soil types in the six categories listed in the table shall be certified by a Registered Soil Scientist licensed in the State of Maine, on a high-intensity soil survey map.
- H. No dwelling or motel unit shall be constructed on soil classified as being "very poorly" drained.
- I. Where a planned unit development or cluster development abuts a watercourse, or water-body, a portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.
- J. All dwelling units in a planned unit development or cluster development shall be connected to a common water supply and distribution system, either public or private, at no expense to the municipality.

- K. All structures with required plumbing in a planned unit development, cluster development or motel shall be connected to a public sanitary sewer system, if available, or to a central collection and treatment system in accordance with the sanitary provisions of this Ordinance.
- L. Cluster developments shall have no more than one driveway per 500 feet of road frontage on arterial streets. The Planning Board may require a second access for public safety purposes.
- M. The lot area within the Shoreland Overlay and Resource Protection Districts per dwelling unit in these districts shall not exceed that normally required. The lot shall contain the required shore frontage for each lot within the Shoreland Zone.

3. Dedication and Maintenance of Common Open Space:

- A. The total area of reserved common land within the development shall not be less than 50% of the entire parcel. The open space shall be shown on the recorded subdivision plan with appropriate notation that it shall not be used for future building lots and shall not be further subdivided.
- B. Common space shall not include areas devoted to public or private vehicular streets, driveways or parking spaces.
- C. Where a cluster development abuts a water body, a portion of the shoreline, as well as reasonable access to it, shall be part of the common open space.
- D. All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the building lots, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the Municipality.
- E. The common open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that:
 - i. It shall not be used for future building lots; and that
 - ii. A part of all of the common open space may, at the option of the Town, be dedicated for acceptance by the Town for operation as a municipal recreation facility.
- F. If any or all of the common space is to be reserved for use by the residents, the by-laws of the proposed neighborhood association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to the Final Plan approval.

- G. Covenants for mandatory membership in the association setting forth the owner's rights and interest and privilege in the association or trust and the common land, shall be reviewed by the Planning Board and included in the deed for each lot or dwelling.
- H. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities and Village assessments.
- I. The developer or sub-divider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request of the neighborhood association or trust or the developer or subdivider.

7.18 Accessory Dwelling Units (ADU):

1. General

Accessory Dwelling Units meeting the following standards shall be considered to be part of a single family, owner occupied home. Accessory Dwelling Units shall be permitted only in those districts which allow single-family dwellings. Apartments not meeting these requirements shall be considered to be separate dwelling units and shall conform to the standards set forth in Article 5 of the Dayton Zoning Ordinance.

- 2 The Accessory Dwelling Unit shall be accessory to the use of the single-family dwelling and only one (1) ADU shall be created in a single family dwelling;
- 3. The total floor area of the ADU shall be minimum of (500) square feet or (30) percent of the gross floor area of the principal building, not to exceed (700) square feet whichever is greater;
- 4. The creation of the ADU shall not alter the single-family character of the property. The following standards shall be met in creating the unit:
 - a. The ADU shall not be clearly identifiable from the exterior as a result of the design of the structure;
 - b Provisions for parking, shall be provided on the property
 - c. Exterior stairs are restricted to the rear or sides of the structure wherever practicable.
- 5. The ADU must not be occupied by more than (2) people
- 6. One of the occupants of the ADU must be an immediate family member to the owner of the property. Immediate family as used in this Ordinance is defined as; spouse,

parent, grandparent, brother, sister, child, or grandchild related by blood, marriage, or adoption.

7. Only one accessory dwelling unit is permitted per lot. Any structure containing an accessory dwelling unit must meet minimum yard and setback requirements for principal structures.
8. When any property containing an accessory dwelling unit is sold or transferred, the new owner must continue to meet the requirements of this Section in order to continue the use of the ADU. Should the new owner not meet the requirements of this Section, the use of the unit must be discontinued to the satisfaction of the CEO.
9. To ensure continued compliance by current and subsequent owners, the applicant shall provide and record in the York County Registry of Deeds a covenant in a form acceptable to the Town attorney that the existence of the accessory dwelling unit is predicated upon the occupancy of either the accessory dwelling or the principal dwelling by a person who owns the property. It is also required that any owner of the property must notify a prospective buyer of the limitations of this section,

Violations of the terms of this covenant shall result in the loss of the ADU permit. Conformance to the condition of the ADU permit and covenant shall be certified yearly by the owner subject to inspection by the Code Enforcement Officer. Inspection shall be allowed by the owner after 48 hours notice from the Code Office.

7.19: Watercourse Alteration or Relocation:

The applicant for a permit shall notify adjacent communities and the Maine Office of Civil Emergency Preparedness prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA to assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

Additional Standards Applicable in the Shoreland Overlay District, Saco River Overlay District, and Resource Protection District.

7.20: Parking Areas

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in districts other than the General Development 1 District, shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

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

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

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

7.21: Roads and Driveways:

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- a. Roads and driveways shall be set back at least 75 feet horizontal distance from the normal high-water line of water body, tributary stream, 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 Planning Board may reduce the road and/or driveway setback requirement shall be no less than 50 feet 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.

On slopes of greater than 20% the road and/or driveway setback shall be increased by ten feet horizontal distance for each 5% increase in slope above 20%. This paragraph does not apply to approaches to water crossings nor 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 5.2.(L)(a) except for that portion of the road or driveway necessary for direct access to the structure.

- b. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream, or wetland.
- c. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or

driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district, in which case 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.

- d. Road and driveway banks shall be no steeper than a slope of two horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in section 5.I.G.
- e. Road and driveway grades shall be no greater than 10% except for segments of less than 200 feet.
- f. 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.
- g. 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:
- h. 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

- i. Drainage dips may be used in place of ditch relief culverts only where the road grade is 10% or less.

- j. On road sections having slopes greater than 10%, ditch relief culverts shall be placed at approximately a 30° angle down slope from a line perpendicular to the centerline of the road, or driveway.
- k. 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
- l. Ditches, culverts, bridges, 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.

7.22: 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 road-side distribution lines. is not allowed in a Resource Protection District, except to provide services to a permitted use within the 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 lines, towers and related equipment may be replaced or reconstructed without a permit.

7.23: Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting:

- 1. In a Resource Protection District the clearing of vegetation, except for the removal of Hazard Trees, shall be limited to that which is necessary for uses expressly authorized in that district,
- 2. Except in areas as described in, Section a. above, and except to allow for the development of permitted uses, within a strip of land extending 75 feet, horizontal distance, from any a water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - a. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six feet in width as measured between tree trunks is permitted to access the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

- b. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" shall be defined as maintaining a rating score of 16 or more in any 25-foot by 50-foot rectangular square area as determined by the following rating system.

Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 to 4 in.	1
more than 4 less than 8 in.	2
more than 8 less than 12 in.	4
Over 12 inches the following shall govern in applying this point system:	

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

For the purposes of Section 7.21.2 (b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangular area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

- c. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- d. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead , or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q. below unless existing new tree growth is present.

- e. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities including associated construction and related equipment operation within or outside the shoreline buffer must comply with the requirements in Section 7.21.2
3. At distances greater than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten year period, selective cutting of not more than 40% percent of the volume of trees four inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40% percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or 10,000 square feet, whichever is greater, including land previously cleared.

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 7.21

5. In order to protect water quality and wildlife habitat, in the shoreland zone, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in section 7.21 of the Zoning Ordinance.

7.24: Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal:

1. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
 - a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
 - b. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured

at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

- c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
 - d. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
 - e. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
2. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- a. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 - i. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - ii. Stumps from the storm-damaged trees may not be removed;
 - iii. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 - iv. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

- b. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

7.25: Exemptions to Clearing and Vegetation Removal Requirements:

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
 - a. A coastal wetland; or
 - b. A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
6. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

- a. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
 - b. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
 - c. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
7. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

7.26: Revegetation Requirements:

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

4. Revegetation activities must meet the following requirements for trees and saplings:
 - a. All trees and saplings removed must be replaced with native noninvasive species;
 - b. Replacement vegetation must at a minimum consist of saplings;
 - c. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
 - d. No one species shall make up 50% or more of the number of trees and saplings planted;
 - e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - f. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
 - a. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
 - b. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - c. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
 - d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - e. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
 - a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

- b. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
- c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

7.27: Archaeological Sites:

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

ARTICLE 8 - ADMINISTRATION, ENFORCEMENT, AND PENALTIES

- 8.1 Administering Bodies and Agents**
- 8.2 Basic Requirements**
- 8.3 Permit Application**
- 8.4 Building Permit Fee**
- 8.5 Plumbing Permit Required**
- 8.6 Certificate of Occupancy Required**
- 8.7 Code Enforcement Officer**
- 8.8 Violations, Legal Action, and Fines**
- 8.9 Conditional Use Permits**

8.1 Administering Bodies and Agents:

1. Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st
2. Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A.M.R.S.A. section 2691
3. Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

8.2 Basic Requirements:

The following activities shall not require a building permit: repairs, replacement, and/or normal maintenance not requiring structural elements, decorative changes in existing structures or buildings, provided that the activity is in conformance with Federal, State or local laws and does not involve any other physical changes requiring a permit under this ordinance.

8.3 Permit Application:

- A. Every applicant for a permit shall submit a written application which shall include the following information:
 1. Structures to be erected, structures to be moved, and exterior additions existing structures:
 - a. The shape, size and location of the lot for which application is made.
 - b. The shape, size and location of the lot of the proposed structure, and of any proposed additions to existing structures
 - c. The shape, size and location of any other existing structures on the lot.

- d. The location of adjacent structures on adjacent lots, with reference to the distance from the lot line.
2. The above requirements shall not apply to alterations wholly within an existing structure.
3. All applications shall also include:
 - a. The name and address of the property owner.
 - b. The name, address and telephone number of the person, firm, or firms involved in the construction of the property.
 - c. The value of the proposed construction.
 - d. A statement of the proposed use for any new or moved structure or altered portion of an existing structure
 - e. Any other information the applicant wishes to furnish
 - f. Any other information requested by the Code Enforcement Office to make the application intelligible, and to determine whether the proposed construction will conform to this ordinance, and other local ordinances and state law.
 - g. A certificate that the information in the application is complete and correct to the best of the applicants knowledge and belief.
4. All applications for Building or Use Permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose. All applications shall be signed by the owner of the property or other person authorizing the work.
5. All applications shall be dated, and the Code Enforcement Officer shall not upon each application the date and time of its receipt at his office.
6. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system
7. When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and

sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

B. Upon receipt of a permit application the Code Enforcement Officer shall:

1. Decide whether the information in the application is sufficient for him/her to determine whether, under the ordinance, the permit should be issued, or if the application is otherwise inadequate, he shall at once notify the applicant in writing, indicating what necessary information is required to correct the application. If the application is not so corrected he shall deny it.
2. Within 10 days of the filing of an application for a Building or Use Permit, the Code Enforcement Officer shall approve, deny or refer to the Planning Board for Conditional Use Permit, all such applications. His decision shall be in writing on a form designed for the purpose, and communicated directly to the applicant. One copy of the Code Enforcement Officer's decision shall be filed in the Municipal Town Office. In cases where the Code Enforcement Officer deems that a Conditional Use Permit is required, he shall also provide a copy of his decision to the Planning Board.
3. If the application does not conform, he shall within 10 days, deny the permit in writing, stating therein his reasons for denial. In the event he proposed building or structure is so constructed or is of such usage as to require a review of the application by other authorities or boards, as determined by reference to the land use regulation file, the Code Enforcement Officer shall refer the applicant to the appropriate authority or board, for review, approval or denial. Upon his receipt of the decision of the reviewing authority or board, in writing, and if such decision is an approval, the Code Enforcement Officer shall issue the permit with any conditions prescribed by the reviewing authority or board.
4. The Code Enforcement Officer shall not issue any building permit if he has knowledge that a particular structure would be located in an unapproved subdivision, and /or if he has knowledge that the structure would be in violation of a particular State law or local ordinance. In denying any permit under these circumstances, the Code Enforcement Officer shall state in writing the reasons for denial. If he shall fail, for any reason, within 10 days either to issue a permit or

deny an application in writing, such failure shall be deemed a denial so that the applicant may appeal to the Board of appeals if he so wishes.

- C. Applications for permits with their accompanying plans shall be maintained as a permanent record by the Municipal Officers or the Code Enforcement Officer.
- D. A Building Permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one year of the date on which the permit is granted, or if the work or change is not substantially completed

8.4 Building Permit Fee:

The Municipal Officers shall on an annual basis determine a fee schedule.

8.5 Plumbing Permit Required:

No Building Permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities unless a valid Plumbing Permit has been secured by the applicant or his authorized agent in conformance with the sanitary provisions of this Ordinance, and with the provisions of the State Plumbing Code.

8.6 Certificate of Occupancy Required:

- A. A certificate of occupancy issued by the Code Enforcement Officer is required in advance of the use or occupancy of:
 - 1. Any lot, or change of the use thereof.
 - 2. A structure hereafter erected or a change in the use of an existing structure, or as the building code requires.
- B. No certificate of occupancy shall be issued unless the lot or building or structure complies with all the provisions of this ordinance. A record of all certificates of occupancy shall be kept on file in the Code Enforcement office and a copy shall be furnished on request, to any person having a propriety or tenancy interest in the structure or land involved.

8.7 Code Enforcement Officer:

- A. This Ordinance shall be enforced by a Code Enforcement Officer appointed by the Municipal Officers. If the Code Enforcement Officer should find that any provision of this Ordinance is being violated, he shall notify in writing the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings, structure, additions, or work being done; or

shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

- B. The Code Enforcement Officer should maintain a current file of all pertinent Federal, State and local statutes, ordinances, regulations, codes, and plans relating to land-use regulation including local subdivision plans.
- C. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to approval. The Code Enforcement Officer may enter any property at reasonable hours and enter any structure with the consent of the property owner, occupant or agent, to inspect the property or structure for compliance with the laws or ordinances set forth in this section. If consent is denied he should obtain an administrative warrant before entering the property. The Code Enforcement Officer may revoke a permit if it was issued in error or based on false information.

8.8 Violations, Legal Action, and Fines.

- A. When any violation of any provision of this Ordinance is found to exist, the Municipal Attorney, as designated by the Municipal Officers, either on his own initiative, or upon notice from the Code Enforcement Officer, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Municipality.
- B. Any person, firm or corporation being the owner or having control of any building, land- use, or premises, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, M.R.S.A., Section 4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense.

8.9 Conditional Use Permits:

- A. Authorization:

The Planning Board is hereby authorized to hear and decide upon application for Conditional Use Permits in accordance with State law and the provisions of this Ordinance.

- B. Powers and Duties:

The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for Conditional Use Permits. No Conditional Use Permit shall be authorized unless specific provision for such Conditional Use is made in this Ordinance.

C. Activities Requiring Conditional Use Permits:

A Conditional Use Permit shall be required for any land use or activity which is classified as a "Conditional Use" in Table 4 of this Ordinance. A Conditional Use Permit shall also be required for any substantial increase or expansion in the volume or intensity of any existing non-agricultural or non-single family residential use, or for the resumption of any such use on a continued basis which has been discontinued for at least two (2) years.

D. Application Procedure:

1. A person informed by the Code Enforcement Officer that he requires a Conditional Use Permit shall file an application for the permit with the Planning Board on forms provided for the purpose. All plans for Conditional Uses presented for approval under this section shall be drawn at a scale of not smaller than one (1) inch equals fifty (50) feet and show the following information unless the Planning Board waives these requirements:
 - a. An appropriate place for the signatures of the Planning Board,
 - b. A date, scale, and arrow showing both true and magnetic north,
 - c. The zoning district where the premises in question is located,
 - d. All existing and proposed setback dimensions.
 - e. All landscaped areas, fencing and size and type of plant material upon the premises in question.
 - f. All proposed signs and their size, location and direction of illumination.
 - g. All existing and/or proposed buildings, if any, with dimensions showing finished grade elevations at all corners and entrances, plus all existing or proposed parking areas.
 - h. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed.
3. Within 20 days of the public hearing, or 30 days of the application being filed if no public hearing is held, the Planning Board shall reach a decision on a Conditional Use and shall inform, in writing, the applicant, the Code Enforcement Officer and Municipal Officers of its decision and its reasons therefore.
4. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a Building Permit.

5. A Conditional Use Permit secured under the provision of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not commenced within one year of the date of which the Conditional Use is authorized, or if the work or change is not substantially completed within two years.

E. Public Hearings:

1. In scheduling Public Hearings under this Ordinance, the Planning Board shall notify the Selectmen, the Code Enforcement Officer, and the Board of Appeals, at least twenty (20) days in advance of the time and place of the hearing, and shall publish notice of the hearing at least 10 days in advance in a newspaper of general circulation in the area.
2. The Planning Board shall notify, by certified mail, the applicant and the owners of all property within 500 feet of the property involved, at least ten (10) days in advance of the hearing, of the nature of the application and of the time and place of the public hearing
3. The owners of property shall be considered to be those against whom taxes are assessed.
4. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.
5. At any hearing a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.
6. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

F. Factors Applicable to Conditional Uses:

1. In considering a Conditional Use Permit the Planning Board shall evaluate immediate and long-range effects of the proposed use, and the following factors:
 - a. The compatibility of the proposed use with adjacent land uses and other property in the district
 - b. The need of a particular location for the proposed use;
 - c. The impact of the proposed use on local population and community facilities;
 - d. The impact of the proposed use on transportation facilities;

- e. The maintenance of safe and healthful conditions;
 - f. Existing topographic and drainage features and vegetative cover on the site;
 - g. The prevention and control of water pollution and sedimentation;
 - h. The location of the site with respect to flood plains and floodways of rivers or streams.
2. Before any Conditional Use Permit may be issued, the Planning Board shall make written findings certifying compliance with the relevant Performance Standards in Article 5 of this Ordinance, and certifying that satisfactory provision and arrangement has been made concerning the following, where applicable:
- a. Ingress and egress to property and proposed structures thereon, with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - b. Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the Conditional Use on adjoining properties and properties generally in the district;
 - c. Refuse and service areas, with particular reference to the items in (1) and (2) above;
 - d. Utilities, with reference to locations, availability, and compatibility;
 - e. Screening and buffering with reference to type, dimensions, and character;
 - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
 - g. Required yards and other open space; and
 - h. Within the Shoreland Overlay and Resource Protection Districts the Board shall determine the proposed use and structure(s):
 - i. Will adequately provide for the disposal of all wastewater;
 - ii. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - iii. Will conserve shore cover and visual, as well as actual, points of access to water bodies;

- iv. Will protect archaeological and historic resources as designated in the comprehensive plan;
- v. Will avoid problems associated with flood plain development and use; and
- vi. Is in conformance with the provisions of Articles 4 and 5.

G. Conditions Attached to Conditional Uses:

1. Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance that would mitigate any adverse effects on adjoining or neighboring properties, which might otherwise result from the proposed use. These conditions may include, but are not limited to, specifications for: type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; locations of piers, docks, parking and signs; type of construction; or any other conditions, restriction, or safeguard that would uphold the spirit and intent of this Ordinance.
2. In order to secure information upon which to base its determination, the Planning Board may require the applicant to furnish, in addition to the information required for a Conditional Use Permit, the following information:
 - a. A plan showing contours (at intervals to be determined by the Planning Board) showing Mean Sea Level, high water elevation, groundwater conditions, bedrock, slope and vegetative cover.
 - b. A high-intensity soils report identifying the soils boundaries and names in the proposed development, with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification.
 - c. Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open spaces, and landscaping.
 - d. Plans of buildings, sewage disposal facilities and water supply systems.
 - e. Other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance. In evaluating each application the Planning Board may request the assistance of the Regional Planning Commission, County Soil and Water Conservation District and any other State or Federal agency which can provide technical assistance.

H. Violations.

1. Failure to comply with any conditions of a Conditional Use Permit subsequent to the receipt of a building permit, shall be construed to be a violation of this regulation and shall be grounds for revoking the building permit; initiating legal proceedings to enjoin construction, development, or any specific activity violating the conditions of permit approval; or applying the legal penalties of Section 6.6.B.
2. In instances where no new building or construction is proposed, establishment of a new use or resumption of a use which has been discontinued for at least two (2) years, if accomplished without Planning Board approval, shall constitute a violation of this ordinance.

Article 9 Board of Appeals:

- 9.1 Establishment and Organization**
- 9.2 Proceedings of the Board of Appeals**
- 9.3 Powers and Duties of the Board of Appeals**
- 9.4 Variances**
- 9.5 Appeal Procedure**
- 9.6 Decisions of the Board of Appeals**
- 9.7 Stay of Proceedings**

9.1 Establishment and Organization:

A Board of Appeals is hereby established which shall consist of five (5) members. The terms of office of a member or associate is five (5) years serving staggered terms. A municipal officer or his spouse may not be a member or associate member of the Board of Appeals. When a regular member of the Board is unable to act because of interest, physical incapacity or absence, an associate member shall act in his stead. Members of the Board of Appeals shall be appointed by the municipal officers. When there is a permanent vacancy, the municipal officers shall appoint a new member to serve for the remainder of the unexpired term. Members of the Board of Appeals may be removed from office by the municipal officer for cause upon written charges and after public hearing. The Board of Appeals shall elect a chairman and secretary from its own membership.

9.2 Proceedings of the Board of Appeals:

The Board of Appeals shall adopt rules necessary to the conduct of its affairs, in keeping with the provisions of this ordinance and Title 30, section 2411 of the Maine Revised Statutes Annotated. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or of absence or failure to vote, (and) shall keep records of its examinations and other official actions, all of which shall be a public record and be filed in the town offices. A quorum shall consist of three members.

9.3 Powers and Duties of the Board of Appeals:

The Board of Appeals shall have the following powers:

A. Administrative review:

To hear and decide appeals where it is alleged there is a land use violation or error in any order, requirement, decision, or determination made by the Codes Enforcement Officer in the enforcement of this ordinance.

B. Variances:

To authorize variances upon appeal in specific cases, but only within the limitations set forth in this ordinance.

C. Interpretations of the Ordinance:

9.4 Variances. Variances may be permitted only under the following conditions:

- A. Variances are obtainable only for height, minimum lot size, structure size, setbacks and open space requirements.
- B. Variances cannot, under any circumstances, be obtainable for establishment of any uses otherwise prohibited.
- C. The Board shall not grant a variance unless it finds that all the following criteria are met:

- 1 That the land in question cannot yield a reasonable return unless a variance is granted;
- 2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- 3. That the 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.

Such hardship may be found by the Board of Appeals where the Zoning Ordinance, as applied to the applicant's property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put. Mere inconvenience to the property owner shall not satisfy this requirement. Neither financial hardship alone nor pleading that a greater profit may be realized from the applicants property were a variance granted shall be sufficient evidence of unnecessary hardship.

- D. The Board shall limit any variances granted as strictly as possible in order to preserve the terms of the ordinance as much as possible, and it may impose such conditions to a variance as it deems necessary, to this end.

9.5 Appeal Procedure:

A. Making an Appeal:

1. An appeal may be taken to the Board of Appeals by an aggrieved person from any decision of the Code Enforcement Officer. Such appeal shall be taken within thirty (30) days of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
2. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, specifying the grounds for such appeal. For a variance appeal the applicant shall submit:
 - a. A sketch drawn to scale showing lot lines, location of existing building and other physical features pertinent to the variance request.
 - b. A concise written statement stating what variance is requested.
3. Upon being notified of an appeal the Code Enforcement Officer shall transmit to the Board all the papers specifying the record of the decision appealed from. Each appeal shall be accompanied by a fee to cover advertising and administrative costs. If the actual cost of advertising exceeds the fee paid the applicant shall pay the balance. The Board of Appeals shall hold a public hearing on the appeal within forty five (45) days.
4. A copy of each variance request, in the Shoreland Zone, including the application and all supporting information supplied by the applicant, shall be forwarded by the Municipal Officials to the Commissioner of the Department of Environmental Protection at least twenty days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

B. Procedure on Appeal:

1. At least fifteen (15) days prior to the date of the hearing on such appeal, the Board shall cause to be published in one issue in a newspaper of general circulation in the Town a notice which includes:
 - a. The name of the person appealing.
 - b. A brief description of the property involved.
 - c. A brief description of the decision appealed from, or the nature of a variance appeal.

- d. The time and place of the Board hearing.
 2. At least ten (10) days prior to the date set for hearing, the Board shall also cause the Town Clerk to give similar written notice to:
 - a. All property owners of record, whose properties lie within 200 feet of the affected property,
 - b. The person making the appeal, and
 - c. The Planning Board and any other parties of record.
 3. In the Shoreland Zone a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
- C. Hearings:
1. The Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross—examinations as may be required for a full and true disclosure of the facts.
 2. The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the chair. All persons at the hearing shall abide by the order of the Chairman.
 3. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.
 4. The Code Enforcement Officer shall attend all hearings and may present to the Board of Appeals all plans photographs, or other material he deems appropriate for an understanding of the appeal.
 5. The transcript of testimony if any and exhibits together with all papers and requests filed in the proceedings, shall constitute the record.

9.6 Decisions of the Board of Appeals:

- A. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Code Enforcement Officer, or to decide in favor of the applicant on any matter on which it is required to pass under this ordinance, or to affect any variation in the application of this ordinance.
- B. The Board shall decide all appeals within thirty (30) days after hearing, and shall issue a written decision on all appeals.
- C. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented, and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent, the Planning Board, and the Municipal Officers within seven (7) days of the decision date.
- D. Upon notification of the granting of an appeal by the Board of Appeals, the code Enforcement Officer shall immediately issue a Permit in accordance with the conditions of the approval, unless the applicant needs a Conditional Use Permit.
- E. Appeals may be taken as permitted by law from any decision of the Board of Appeals to Superior Court.

9.7 Stay of Proceedings:

An appeal stays all legal proceedings in a furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.