

2015

# Town of Dexter Maine Ordinances

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## Chapter 3

## ANIMALS\*

Art. I.	In General, §§ 3-1—3-25
Art. II.	Dogs, §§ 3-26—3-45
Art. III.	Livestock, §§ 3-46—3-65
Art. IV.	Exotic Animals, §§ 3-66—3-90
Art. V.	Enforcement, § 3-91

## ARTICLE I. IN GENERAL

**Sec. 3-1. Title and purpose.**

(a) *Title.* This chapter shall be known as the Animal Control Ordinance.

(b) *Purpose.* The purpose of this article is to protect the health and welfare of the citizens and to protect the residential, commercial and shoreland areas.

(c) *Quarantine procedures* for any and all bites to humans or domestic animals and livestock is mandated by 22 M.R.S.A. § 1313, cited here by reference.  
(Ord. No. C2007-13, 11-8-07)

**Sec. 3-2. Definitions.**

The following words and phrases, when used in this chapter, shall have the meanings ascribed, except where the context clearly indicates a different meaning:

*Commercial.* Areas designated on the land use map of the Town of Dexter.

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**\*Editor's note**—Ord. No. C2007-13, adopted Nov. 8, 2007, amended Ch. 3 in its entirety to read as herein set out. Former Ch. 3, §§ 3-1—3-44, pertained to similar subject matter, and derived from Ord. No. 78-6, §§ 1—3, adopted July 3, 1978; Ord. No. C87-7, §§ 1—4, adopted Oct. 1, 1987; Ord. No. C97-6, adopted May 8, 1997; Ord. No. 090-12, §§ I—IV, adopted June 7, 1990; and Ord. No. C2004-8, adopted Apr. 8, 2004.

**Cross references**—Riding animals on roadways, animal-drawn vehicles, § 9-6; horse crossings, § 9-74.

## § 3-2

## DEXTER CODE

*Dangerous dog.* A dog that bites an individual who is not trespassing on the dog owner's property or keeper's premises at the time of the bite or a dog that causes a reasonable and prudent person who is not on the dog owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear imminent bodily injury by assaulting or threatening to assault that individual or individual's domestic animal. This definition exempts dogs certified and used for law enforcement purposes.

For the purposes of this definition, dog owner or keeper's premises includes buildings, land and motor vehicles belonging to the owner or keeper of the dog.

*Domestic animals.* Traditional household pets including dogs, cats, birds and small rodents such as mice, ferrets, hamsters and guinea pigs.

*Exotic animals.* Animals include, but are not limited to, pot-belly pigs, all reptiles, amphibians and large cats.

*Household pets.* A dog, cat or other animal commonly kept as a companion, but does not include tamed animals that are ordinarily considered wild animals or livestock. This could include caged pet birds including doves and pigeons.

*Livestock.* Includes, but is not limited to, horses, hogs, sheep, goats, dairy and beef cattle, poultry and other farm animals that are kept outside the home.

*Poultry.* Birds that are bred for the primary purpose of producing eggs, meat, down or feathers.

*Public property.* Public parks, recreation fields and public beaches.

*Residential.* Areas designated on the land use map of the Town of Dexter showing dense development.

*Rural.* Areas that are designated on the land use map of the Town of Dexter, showing sparse development.

*Shoreland zone.* Areas designated as shoreland zone on the official land use map of the Town of Dexter. A copy of the official map is available in the office of the town clerk.

*Small quantity.* Six (6) or less.

## ANIMALS

§ 3-45

*Special exception.* The Dexter Town Council will consider individual special circumstances on a case-by-case basis.  
(Ord. No. C2007-13, 11-8-07)

**Cross references**—Definitions and rules of construction generally, § 1.2; shoreland zoning, App. A.

**Secs. 3-3—3-25. Reserved.**

**ARTICLE II. DOGS\***

**Sec. 3-26. Creating a disturbance; quarantine of suspected rabid dog; dangerous dogs; dogs at large and dogs on public property.**

(a) No person shall own, keep or harbor any dog which shall be loud and unreasonably frequent and habitual barking, howling or yelping disturb the peace of any person.

(b) Any dog which has bitten a person or other animal, shall be quarantined for at least ten (10) days or more per circumstance, at a veterinary hospital or state licensed boarding kennel. The owner of such dog shall be held responsible for all costs of the quarantine payable at the town office.

(c) No person will allow a dog to run at large.

(d) All owners of dogs shall clean up any deposits which their animal leaves on public property.

(e) Enforcement of this violation will consist of a fine as outlined in section 3-91.

(f) This section exempts dogs that are herding livestock or to agricultural guard dogs engaged in protecting livestock or warning the owners of danger to livestock.  
(Ord. No. C2007-13, 11-8-07)

**Secs. 3-27—3-45. Reserved.**

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\*State law reference—Dogs, 7 M.R.S.A. § 3901 et seq.

§ 3-46

DEXTER CODE

**ARTICLE III. LIVESTOCK****Sec. 3-46. Creating a disturbance and limits for livestock on public property.**

(a) It shall be unlawful to house or keep livestock animals within the residential, commercial and shoreland zone unless the property owner is granted a special exception.

(b) Any livestock animal housed or kept within the residential, commercial or shoreland zone prior to January 1, 1990, are exempt from the provision of this article.

(c) All owners of livestock shall be responsible for clean up after their animal on public property.

(d) Exempt from this article are poultry and rabbits, not including roosters, that are kept in small quantities. If a disturbance is reported, it will be up to the discretion of the animal control officer to determine the disturbance before any enforcement action is commenced.

(e) The code enforcement officer shall determine whether a violation of this article exists.  
(Ord. No. C2007-13, 11-8-07)

**Secs. 3-47—3-65. Reserved.****ARTICLE IV. EXOTIC ANIMALS****Sec. 3-66. Creating a disturbance.**

(a) Animals considered exotic may be housed or kept, provided they do not create a disturbance in the neighborhood. It will be up to the discretion of the animal control officer to determine the degree of disturbance before enforcement action is commenced.

(b) This section is not meant to limit those animals that are housed inside a residence or business.  
(Ord. No. C2007-13, 11-8-07)

**Secs. 3-67—3-90. Reserved.**

## ANIMALS

§ 3-91

**ARTICLE V. ENFORCEMENT****Sec. 3-91. Enforcement of this chapter will be the responsibility of the animal control officer and the code enforcement officer.**

(a) *Dogs at large.* Any dog found to be running at large will be assessed a fine of twenty dollars (\$20.00) for each dog, payable to the town office. If a dog is taken to a shelter by the animal control officer, all shelter fees will be paid to the animal shelter. With each subsequent report of the same dog, the fine will increase in multiples of ten dollars (\$10.00).

1 <sup>st</sup> report	\$20.00
2 <sup>nd</sup> report	\$30.00
3 <sup>rd</sup> report	\$40.00

(b) *Dog clean up.* Any dog found to defecate on any public property without the proper clean up will be assessed to the property owner a fine of twenty dollars (\$20.00) for each dog, payable to the town office. With each subsequent report of the same animal, the fine will increase in multiples of ten dollars (\$10.00).

1 <sup>st</sup> report	\$20.00
2 <sup>nd</sup> report	\$30.00
3 <sup>rd</sup> report	\$40.00

(c) *Exotic animals.* Animals that are kept as household pets shall be kept in control by the owner at all times. Exotic animals that are in violation of this article shall be ordered to be removed. If not done within the specified time given by the animal control officer, an expert animal handler may be hired by the town as the animals may be dangerous and need special handling. All fees for special handling will be charged to the property owner. A fine will be assessed to the property owner of twenty dollars (\$20.00) for each animal, payable to the town office. With each subsequent report of the same animal, the fine will increase in multiples of ten dollars (\$10.00).

§ 3-91

## DEXTER CODE

1 <sup>st</sup> report	\$20.00
2 <sup>nd</sup> report	\$30.00
3 <sup>rd</sup> report	\$40.00

(d) *Habitual barking yelping or howling.* Reports of habitual barking will be investigated by the animal control officer. If a dog is found by the animal control officer to be continuously barking for more than fifteen (15) minutes, a fine will be assessed to the property owner of twenty dollars (\$20.00) for each dog, payable to the town office. With each subsequent report of the same dog, the fine will increase in multiples of ten dollars (\$10.00). This section exempts dogs that are herding livestock or to agricultural guard dogs engaged in protecting livestock or warning the owners of danger to livestock.

1 <sup>st</sup> report	\$20.00
2 <sup>nd</sup> report	\$30.00
3 <sup>rd</sup> report	\$40.00

(e) *Livestock.* Any unlawful animal kept after the code enforcement officers specified time for removal, [a fine] shall be assessed to the property owner of fifty dollars (\$50.00) per day, per animal payable to the town office.

(f) If court action is deemed necessary by either animal control officer or code enforcement officer for any of the above mentioned violations, the violator shall be responsible for all fines, court fees and lawyer costs incurred by the town if the court finds for the town.

(Ord. No. C2007-13, 11-8-07)

## Chapter 3.6

## CEMETERIES\*

Art. .	In General, §§ 3.6-1-8.6-14
Art. II.	Procedure and Authority, §§ 3.6-15-3.6-29
Art. III.	Administration and Maintenance, §§ 3.6-30--8.6-49
Art. IV.	Burials, §§ 3.6-50--8.6-69
Art. V.	Care of Lots, §§ 3.6-70--8.6-75

## ARTICLE I. IN GENERAL

## Sec. 3.6-1. Declaration of policy.

The town council establishes this chapter for the proper operation and use of municipal cemeteries in the town. The town council recognizes that the municipal cemeteries are sacred ground reserved as a final resting place for the people of the town and desires to have the cemeteries maintained in the best possible manner and firmly believes that this article is necessary for the protection of lot and grave owners, and for the proper conduct and good order of the cemeteries.  
(Ord. No. C2002-23, 9-12-02)

## Sec. 3.6-2. Application.

The rules and regulations contained in this chapter shall apply to any person and to any form of association or organization.  
(Ord. No. C2002-23, 9-12-02)

## Sec. 3.6-3. Penalty for violation.

Unless otherwise provided by state law pertaining to cemeteries or burial of the dead, a maximum fine of one hundred dollars (\$100.00) shall be imposed upon any person violating the provisions of this chapter.  
(Ord. No. C2002-23, 9-12-02)

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\*Editor's note-Ord. No. C2002-23, adopted Sept. 12, 2002, added new provisions to the Code as Ch. 12. In order to preserve the alphabetical sequencing of chapters within the Code, the provisions of Ord. No. C2002-23 have been redesignated as Ch. 3.6 at the discretion of the editor.



§ 3.6-4

DEXTER CODE

**Sec. 3.6-4. General regulations.**

The following shall be the general rules and regulations for use of municipal cemeteries.

- (a) No person shall:
  - (1) Enter a cemetery except through an established gate or entrance way.
  - (2) Deposit rubbish or debris on cemetery grounds, except in receptacles provided.
  - (3) Pick or mutilate any flowers, either wild or domestic, or disturb any tree, shrub, or other plant material.
  - (4) Use the cemeteries as a picnic ground, or consume alcoholic beverages in a cemetery or bring the same upon the premises.
  - (5) Use any form of advertising on cemetery premises.
  - (6) Discharge firearms in or adjacent to any cemetery. This prohibition shall not apply to authorized volleys at burial services conducted by recognized military organizations or associations of the United States.
  - (7) In any way injure or deface any monument, stone, fence, or other structures, or property within any cemetery.
  - (8) Allow any dog or other domestic animal to run at-large within any cemetery.
- (b) No child under the age of ten (10) years shall be allowed in any cemetery unless accompanied by an adult.
- (c) Horseback riding within or through cemeteries is expressly prohibited.
- (d) Operation of unregistered motor bikes within or through cemeteries is prohibited.
- (e) Operation of snowmobiles and ATVs in the cemeteries is prohibited.

(Ord. No. C2002-23, 9-12-02)

## CEMETERIES

§ 3.6-15

## Sec. 3.6-5. Traffic regulations.

(a) No person shall operate or cause to operate any vehicle within a cemetery except on roads designed for that purpose and no vehicle shall be driven a speed in excess of fifteen (15) miles per hour upon any roads within municipal cemeteries.

(b) No person shall enter any cemetery with a loaded truck, except the town maintenance crews, unless permission has been received from the cemetery sexton.

(c) No person shall unload any stone, dirt or other material from trucks in any cemetery, except the town maintenance crews in the normal discharge of their work, or encumber walks, avenues or places with such material, without express permission and consent of the cemetery sexton.

(d) Any person operating a vehicle within any cemetery shall be subject to all the traffic laws of the town applicable to motor vehicle operation.

(Ord. No. C2002-23, 9-12-02)

Secs. 3.6-6-3.6-14. Reserved.

## ARTICLE II. PROCEDURE AND AUTHORITY

## Sec. 3.6-15. Cemetery sexton.

The cemetery sexton is appointed annually in accordance with procedures set forth in the Town of Dexter Charter. The sexton is charged with the responsibility to oversee the operation of town cemeteries in accordance with this ordinance and applicable laws set forth by the State of Maine. The sexton shall oversee the day-to-day operation of cemeteries, to include maintenance and coordination of burials. Additionally, the sexton shall develop annual expense, capital, and revenue budgets associated with cemetery requirements, manage cemetery operational expenses, and act as an advisor to the cemetery committee.

(Ord. No. C2002-23, 9-12-02)

§ 3.6-16

DEXTER CODE

**Sec. 3.6-16. Management of perpetual care funds, trust funds and designated reserves.**

The management of cemetery perpetual care funds, trust funds, and any other cemetery reserve funds shall be entrusted to the town treasurer and undertaken in accordance with the investment policies and procedures set forth in the Dexter Town Codes as well as being fully compliant with requirements established in 13 M.R.S.A. § 1306.  
(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-17. Establishment of new cemeteries.**

The town council shall have the final authority for the establishment of cemeteries within the town limits, and shall, as the need arises, set aside new ground areas for this purpose. The establishment of new cemeteries shall also comply with the standards and procedures set forth in 13 M.R.S.A. § 1303.  
(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-18. Existing cemeteries.**

The following named cemeteries shall be deemed to have been established as municipal cemeteries:

- (a) Greene Cemetery.
  - (b) Storer Cemetery.
  - (c) Elmwood Cemetery.
  - (d) Mt. Pleasant Cemetery.
- (Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-19. Platting of cemeteries.**

Before any new land is opened for cemetery use and the sale of lots, the town manager shall have such land area laid out showing the system of streets and avenues, and a numbered system of lots.  
(Ord. No. C2002-23, 9-12-02)

## CEMETERIES

§ 3.6-30

**Sec. 3.6-20. Planning board review.**

The preliminary plan and layout of new cemetery and land areas shall be submitted to the planning board for review and approval. Upon approval, the planning board shall advise the town council of its review action with a recommendation for or against adoption.

(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-21. Cemetery advisory committee.**

A cemetery committee, composed of five (5) members, shall be appointed annually by the town council. The committee's authority is advisory only; however, the group is expected to participate in formulation of the annual operating budget, planning for cemetery growth and development, and formulation of policies and procedures relative to cemetery operations. The cemetery sexton will act as an advisor to the committee.

(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-22. Cemetery committee by-laws.**

The cemetery committee shall develop a set of by-laws in accordance with the requirements set forth in the Dexter Town Charter.

(Ord. No. C2002-23, 9-12-02)

**Secs. 3.6-23—3.6-29. Reserved.****ARTICLE III. ADMINISTRATION AND MAINTENANCE****Sec. 3.6-30. Lot size established.**

(a) Lot sizes for municipal cemeteries are hereby established as follows:

- (1) Single three-grave lot, ten and one-half (10½) by ten (10), or one hundred five (105) square feet;
- (2) Double six-grave lot, ten (10) by twenty-one (21) or two hundred ten (210) square feet;

§ 3.6-30

DEXTER CODE

- (3) Single one-grave lot, three and one half (3½) by ten (10) or thirty-five (35) square feet.

(b) Single grave lot sections shall be established within cemetery areas for those persons desiring single graves, and for the use of the town for the burial of indigent persons

(c) Single grave lots shall be limited to one (1) casket or two (2) urns with one (1) headstone.

(Ord. No. C2002-23, 9-12-02; Ord. No. C2005-20, 9-8-05)

**Sec. 3.6-31. Purchase of lots.**

(a) *Conditions of lot purchases.* Lots purchased in the laid-out sections of cemeteries of the town shall be conveyed by special deed for burial purposes only, and shall be subject at all times to the provisions of the Charter, Town Ordinances, and applicable state laws.

(b) *Purchase procedure.* Lots in the laid-out cemeteries of the town may be selected and purchased from the sexton, and payment for lots purchased shall be made to the town clerk before any burial is performed. Such purchases shall be evidenced by a deed prepared by the town clerk and signed by the town council. Such deed shall state the name of the purchaser, purchase price and amount paid, name of cemetery, number of that lot, and section in which located.

(c) *Records of cemeteries, lot ownership, and burials.* The maintenance of cemetery records shall be the responsibility of the cemetery sexton. Copies of the deeds conveyed for lot purchases shall be recorded by the town clerk.

(d) *Transfer of lots.* No transfer or assignment of a lot shall be made by any owner without the express approval of the cemetery sexton and all transfers shall be made upon approved forms through the office of the town clerk and recorded in the cemetery records.

(e) *Charge for lots.* Each grave lot will cost two hundred dollars (\$200.00) regardless of the number of lots purchased for residents/taxpayers of the Town of Dexter. Cost of each grave for a nonresident will be four hundred dollars (\$400.00) per grave lot. (Ord. No. C2002-23, 9-12-02; Ord. No. C2005-20, 9-8-05; Ord. No. C2014-3, 1-9-14)

## CEMETERIES

## § 3.6-36

**Sec. 3.6-32. Cemetery maintenance generally.**

The general maintenance of the cemeteries, designed to improve and maintain their appearance and condition, shall be the responsibility of the town. It shall include such items as the upkeep of drives, buildings, fences, spring and fall clean-up, raking of leaves, and the general periodic mowing of grass.  
(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-33. Trees, shrubs, plants and flowers.**

No trees or shrubs shall be planted in any lot in any municipal cemetery by any person. Existing trees or shrubs may be removed by order of the cemetery sexton if detrimental to the cemetery, adjoining lots, or inconvenience to the care and maintenance of lots. Any growing plants or flowers to be planted on any lot shall be placed in front, or behind, the monuments, but never in front or around headstones or markers. All flowers, whether artificial or real, shall be limited to three (3) baskets or pieces for each lot, and they shall be removed from the lots by October 15 of each year.  
(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-34. Grading of lots.**

All grading of cemetery lots shall be done at the direction of the cemetery sexton, upon request of the owner. No person shall do any grading causing the surface of the ground to be raised above the existing height of the surrounding area.  
(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-35. Curbs and fencing.**

No curbs or fences shall be permitted around any individual cemetery lot or group of lots.  
(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-36. Monuments and markers.**

All municipal cemeteries shall be permitted to have monuments, markers, and cornerstones of such dimension, material and location as shall be approved by the cemetery sexton. All

§ 3.6-36

DEXTER CODE

cornerstones, headstones, and markers shall be set flush with the lawn surface so that no part shall protrude above the surface of the ground. Benches and statues will be allowed only if used and inscribed as a monument.

(Ord. No. C2002-23, 9-12-02; Ord. No. C2005-21, 9-8-05)

**Secs. 3.6-37—3.6-49. Reserved.**

#### ARTICLE IV. BURIALS

**Sec. 3.6-50. Conditions for burial.**

No burial shall take place without first having obtained a burial permit from the town clerk by the person making arrangements for a burial, and all conditions of laws and ordinances having been met. No wooden burial boxes shall be used for burial in any of the town's cemeteries. All burial boxes shall be of cement or steel construction.

(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-51. Preparation of graves.**

The preparation of graves shall be the responsibility of the cemetery department. Any deviation from this policy is subject to written approval by the cemetery sexton.

(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-52. Winter burials.**

The cemetery department will prepare graves for burial during the winter months, weather and other circumstances permitting. In case circumstances are such that burial cannot be made, temporary internment shall be in the cemetery vault or private vault.

(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-53. Burial rates.**

The town burial rates shall be adults: four hundred dollars (\$400.00) on weekdays; five hundred dollars (\$500.00) on weekends and holidays; burials for ashes shall be one hundred

## CEMETERIES

## § 3.6-71

twenty-five dollars (\$125.00) on weekdays and one hundred fifty dollars (\$150.00) on weekends and holidays; and burials for infants shall be one hundred dollars (\$100.00). Grave closings after 4:00 p.m. will be one hundred dollars (\$100.00) extra. (Ord. No. C2002-23, 9-12-02; Ord. No. C2005-20, 9-8-05; Ord. No. C2014-3, 1-9-14)

**Sec. 3.6-54. Responsibility for errors.**

Neither the town nor the cemetery sexton shall be responsible for errors in location of graves on lots arising from improper instructions from the person making arrangements. Orders from funeral directors shall be considered the same as orders from owners.

(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-55. Outside agency burials.**

In matters pertaining to burials coming into town from outside agencies, unless the exact lot and grave location is ordered with sufficient identification to the satisfaction of the cemetery sexton, the body will be entombed pending proper arrangements.

(Ord. No. C2002-23, 9-12-02)

**Secs. 3.6-56—3.6-69. Reserved.****ARTICLE V. CARE OF LOTS****Sec. 3.6-70. Perpetual care fund.**

State law requires the establishment of a cemetery perpetual care fund by any entity that controls a cemetery. The income derived from the perpetual care fund must be devoted to maintenance of the cemeteries.

(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-71. Perpetual care required.**

All municipal cemetery lots sold after June 1, 1977, shall require a perpetual care trust fund reserved in the name of the lot owner for the maintenance and care of such lots. Owners of



§ 3.6-71

DEXTER CODE

cemetery lots purchased prior to June 1, 1977, may secure perpetual care service by applying to the town clerk for the acceptance of a sum, sufficient to provide the income necessary for the care and maintenance of the lot, as hereinafter established in the schedule or rates for perpetual care.  
(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-72. Purchase of perpetual care.**

Perpetual care trust funds for the care and maintenance of lots shall be purchased from the town clerk, and such funds shall be held in trust, the income thereof to be used by the town for perpetual care services, in accordance with the Dexter Town Charter and applicable state laws.  
(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-73. Reserved.**

**Editor's note**—At the direction of the town § 3.6-73 entitled "Ordinary care", has been deleted. Said § derived from Ord. No. C2002-23, adopted Sept. 12, 2002.

**Sec. 3.6-74. Scope of care and maintenance.**

The care and maintenance of lots, whether perpetual or ordinary, shall include the mowing and trimming of grass at reasonable intervals, the raking and cleaning of lots, and the grading and seeding of lots. Perpetual or ordinary care shall not include the maintenance or repair of any monuments, stones, markers or walls, nor the planting or care of flowers or shrubs.  
(Ord. No. C2002-23, 9-12-02)

**Sec. 3.6-75. Rates.**

The following rates are hereby established for the purchase of perpetual and ordinary care:

- (a) *Perpetual care.* Perpetual care will cost two hundred dollars (\$200.00) per grave for residents/taxpayers of the Town of Dexter. Cost of perpetual care for nonresidents will be four hundred dollars (\$400.00) per grave lot.

## CEMETERIES

§ 3.6-75

(b) *Ordinary care.*

- (1) Single and two-grave lots shall cost twenty-five dollars (\$25.00) annually;
- (2) Six-grave lots shall cost fifty dollars (\$50.00) annually;
- (3) Twelve-grave lots shall cost seventy-five dollars (\$75.00) annually.

(Ord. No. C2002-23, 9-12-02; Ord. No. C2005-20, 9-8-05; Ord. No. C2014-3, 1-9-14)



## Chapter 3.8

**FIRE PREVENTION AND PROTECTION**

Art. I.	In General, §§ 3.8-1—3.8-20
Art. II.	Fire Department, §§ 3.8-21—3.8-29

**ARTICLE I. IN GENERAL**

**Secs. 3.8-1—3.8-20. Reserved.**

**ARTICLE II. FIRE DEPARTMENT**

**Sec. 3.8-21. Authority.**

(a) In accordance with the provisions of the Charter of the Town of Dexter, there is hereby established, subject to the approval of the town council, the following rules and regulations for the proper government of the Dexter Fire Department.

(b) Changes in the rules and regulations shall be presented at a regular meeting and voted on at the next regular meeting. A simple majority of the membership will constitute acceptance of the department. Absentee ballots will be accepted and counted. (Ord. No. C97-12, § 1, 7-29-97; Ord. No. C2007-9, 8-9-07; Ord. No. C2014-9, 4-10-14)

**Sec. 3.8-22. Organization.**

(a) The Dexter Fire Department shall consist of a chief, first assistant chief, second assistant chief, captain, first and second lieutenants, clerk, safety officer(s), and thirty-seven (37) regular firefighters.

(b) Applicants for the Dexter Fire Department shall have their application reviewed by the membership committee. Approved applicants will be placed on a probationary period. If the reserve roster has thirty-seven (37) firefighters, the applicant shall be placed on a waiting list.

## § 3.8-22

## DEXTER CODE

Upon being selected as a probationary firefighter, the member shall be placed on a minimum of six (6) months probation period. At the end said period, the members will be reviewed by the membership committee, and upon their approval, will be placed on the roster.

(c) The membership committee shall consist of the chief officers plus two (2) regular firefighters elected yearly at the annual elections.

(d) In event of the resignation or removal of any officer, all subordinate officers will move up to the next higher position until all positions filled. The officers will maintain their current responsibilities until the next annual election. At the next regular monthly meeting, a replacement(s) will be elected to fill any open positions.

(e) Compensation for firefighters shall be determined by the chief and town manager and approved by the town council.  
(Ord. No. C97-12, § 2, 7-29-97; Ord. No. C2007-9, 8-9-07)

**Sec. 3.8-23. Responsibilities.**

(a) The chief shall have control and supervision of the Dexter Fire Department.

(b) The chief shall be responsible for the extinguishment of all fires occurring in the Town of Dexter. The chief shall have sole and absolute command of all members of the department, and all other persons present at fires. The chief shall take prompt measures to arrange apparatus and equipment in the most advantageous manner. The chief shall issue orders as deemed necessary to expedite the control and extinguishment.

(c) The above authority shall apply to all other related emergencies.

(d) The first assistant fire chief shall have the same powers as the chief in the absence of the chief.

(e) The second assistant fire chief shall have the same powers as the chief in the absence of the chief and the first assistant chief.

## FIRE PREVENTION AND PROTECTION

## § 3.8-24

(f) The captain shall exercise command of the department in the absence of all chief officers. The captain shall also preside at the meetings of the department, and shall keep training records.

(g) The lieutenants shall assume command of the department in the absence of the captain and all chief officers. The senior lieutenant shall be in command. The lieutenants shall preside at department meetings in the absence of the captain.

(h) The clerk shall be responsible for maintaining proper records of meetings and roll-calls.

(i) The membership committee shall be responsible for appointing new members, granting leaves of absence, and removing members for due cause.

(j) The officers of the Dexter Fire Department shall meet monthly to plan and discuss fire department operations. Officer's meetings shall be conducted by the chief or senior officers present.

(k) The chief officers may request, if they believe it necessary, that a member may have a medical examination as a requirement for continued membership.

(Ord. No. C97-12, § 3, 7-29-97; Ord. No. C2007-9, 8-9-07)

**Sec. 3.8-24. Meetings.**

(a) The department shall meet a minimum of twelve (12) times a year. Regular meetings will be held on the first Monday of every month at 6:30 p.m.

(b) In the event that the first Monday falls on a holiday, the regular meeting will be held on the following Monday.

(c) Additional meetings and/or training sessions may be called by chief officers having given reasonable notice to all members.

(d) All firefighters are required to attend all regular meetings as a condition of membership. Exceptions will be made only upon personal notification of a chief officer. Exceptions shall be recorded by the clerk.

(e) Failure to attend two (2) meetings in succession without notifying a chief officer may be considered a resignation and may be acted upon as such by the membership committee.

§ 3.8-24

DEXTER CODE

(f) The membership committee shall have the authority to remove a regular non-active firefighter, and/or take appropriate action.

(Ord. No. C97-12, § 4, 7-29-97; Ord. No. C2007-9, 8-9-07)

**Sec. 3.8-25. Training.**

(a) The department shall meet twelve (12) times a year for the purpose of training sessions, which will normally be held on the third Monday of each month.

(b) Training sessions shall be arranged by the training officer. All members shall be required to attend a minimum of twelve (12) hours training in any calendar year.

(c) Special training sessions may be arranged by any of the officers with the chief's approval.

(Ord. No. C97-12, § 5, 7-29-97; Ord. No. C2007-9, 8-9-07)

**Sec. 3.8-26. Election of officers.**

(a) At the October meeting, candidates for any office shall declare their candidacy.

(b) To be eligible for office, a candidate must be a member with at least five (5) years service, last two (2) of which must be with the Dexter Fire Department, with the exception of the lieutenants which must have three (3) years of service, last two (2) of which must be with the Dexter Fire Department.

(c) At the regular November meeting, a slate of officers shall be elected from the announced candidates and incumbent officers.

(d) Appointment by the town manager of the chief shall constitute legal confirmation of all officers.

(Ord. No. C97-12, § 6, 7-29-97; Ord. No. C2007-4, 5-10-07; Ord. No. C2007-9, 8-9-07; Ord. No. C2014-9, 4-10-14)

**Sec. 3.8-27. Station duty.**

Any station duty shall be authorized by the officers.

(Ord. No. C97-12, § 7, 7-29-97; Ord. No. C2007-9, 8-9-07)

## FIRE PREVENTION AND PROTECTION

§ 3.8-29

**Sec. 3.8-28. Fire operations.**

(a) Alarm of fire or emergency shall be instantly responded to, irrespective of other considerations. All members shall immediately report to the fire station for assignment.

(b) The first officer at the fire or emergency shall assume full control and command until the arrival of a senior officer. In the absence of all officers, the truck operator or senior firefighter shall assume the responsibility.

(c) Appropriate or required turnout gear shall be worn working at all fire(s) or emergencies. Exceptions to this rule may be made by a department officer.

(d) Officer(s) and members shall take care to avoid unnecessary damage of property of fires or emergencies.

(e) Following a fire or emergency, members shall remain to reload hoses and make equipment ready for reuse. No member shall leave the fire ground or the fire station without reporting to the officer in charge.

(f) Truck operators are responsible for returning their unit to operating capability after returning from an alarm.  
(Ord. No. C97-12, § 8, 7-29-97; Ord. No. C2007-9, 8-9-07)

**Sec. 3.8-29. Junior fire fighter program.**

(a) The Dexter Fire Department is authorized to create and manage a junior fire fighter program under the direct control of officers of the Dexter Fire Department.

(b) The program shall be available to individuals between the ages of sixteen (16) and eighteen (18) years who meet the criteria established in the department's program guidelines.

(c) The program will be conducted under strict compliance with local, state, and federal policies that address the operation and conduct of such programs.  
(Ord. No. C2003-18, 8-14-03; Ord. No. C2007-9, 8-9-07)



## Chapter 6

### HOUSING\*

Art. I .	In General, §§ 6-1---6-25
Art. II	Minimum Standards for Rental Housing, §§ 6-26---6-83
	Div. 1. Generally, §§ 6-26 0-45
	Div. 2. Administration, §§ 6-46 0-70
	Div. 3. Standards, §§ 6-710-83

#### ARTICLE I. IN GENERAL

Secs. 6-1-6-25. Reserved.

#### ARTICLE II. MINIMUM STANDARDS FOR RENTAL HOUSING

##### DIVISION 1. GENERALLY

Sec. 6-26. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Basement* means that portion of a building located partly underground but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

*Cellar* means that portion of a building located partly or entirely underground but having half or more than half its clear floor-to-ceiling height below the average grade of the adjoining ground.

*Dwelling* means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

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\*Cross reference-Flood prevention and protection, Ch. 4; children playing areas designated, §9-71; hidden driveways designated, §9-73; solid waste, Ch. 10; streets, sidewalks and other public places, Ch. 11; shoreland zoning, App. A; land use standards, App. A, § 11.

§6-26

## DEXTER CODE

*Dwelling unit* means one (1) or more rooms located within a dwelling and forming a single housekeeping unit with living, sleeping, cooking and eating facilities.

*Family* means one (1) or more persons occupying a single housekeeping unit.

*Finished grade* means the surface of the ground as it exists or will exist after completion grading.

*Guard* means a vertical protective barrier erected along the exposed edges of stairways, balconies, etc., pursuant to NFPA 101, Section 5.2.

*Habitable space* means a space in a dwelling unit for living, sleeping, eating or cooking. Bathrooms, closets, hallways, storage or utility spaces, unfinished cellars or attics are not considered habitable space.

*Kitchen* means space used for cooking or preparation of food.

*Manufactured housing.* Provisions of this article shall apply to all units defined as "manufactured housing" according to Title 30-A MRSA 4358.

*Mixed occupancy* means occupancy of a building in part residential use, and in part some other use not accessory thereto.

*Multiple dwelling* means any dwelling containing two (2) or more dwelling units.

*Parking space* means an area of not less than two hundred (200) square feet, no side of which is less than ten (10) feet, exclusive of access and maneuvering area to be used for temporary parking for one (1) motor vehicle.

*Premises* means a lot or parcel of land including the buildings or structures thereon.

*Public space* means that space used in common by the occupants of several units within a dwelling or rooming house and by the public.

*Roominghouse* means any dwelling containing two (2) or more rooming units, in which space is let by the owner or operator.

## HOUSING

§ 6-28

*Rooming unit* means any room or rooms forming a single habitable unit used for living and sleeping, but not for cooking or eating purposes.

*Sleeping room* means any room in a dwelling unit which meets the standards of this article and which has been expressly designated by the building owner as a room to be used specifically for sleeping purposes.

*Stairway* means one (1) or more flights of stairs and the necessary landings and platforms connected to form a continuous passage from one (1) floor to another.

*State and federally inspected rental units* means a rental unit that is subsidized and managed by a state or federal agency and provides for the inspection on a yearly basis. By example, but not limited to, HUD housing, and rural development housing.

*Toilet room* means enclosed space containing one (1) or more water closets.

(Ord. No. C87-8, Art. I, § 3, 12-3-87; Ord. No. C93-2, 5-13-93; Ord. No. C94-7, 9-8-94; Ord. No. C99-5, 5-13-99; Ord. No. C2010-18, 11-10-10)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

**Sec. 6-27. Findings.**

In the town there are or may be in the future dwelling structures which are so dilapidated, unsafe, dangerous, unhygienic or unsanitary as to constitute a menace to the health and safety of the people of this town.

(Ord. No. C87-8, 12-3-87, adopted T.M. of 6-14-88)

**Sec. 6-28. Scope.**

This article shall apply to rental residential premises as follows:

- (1) Lots or parcels of land on which rental residential buildings, rented buildings of mixed occupancy, or accessory structures are located.

§ 6-28

## DEXTER CODE

- (2) Rented residential buildings, multiple dwellings, and rooming or boarding houses. Exempt from this subsection will be:
- a. Seasonal camps when such camp consists of one (1) dwelling unit and is rented less than seven (7) months of the year;
  - b. Mobile home parks, boarding houses, hotels and motels which can show a valid and current State of Maine license and proof of current inspection.
  - c. State and federally inspected rental units will be deemed exempt from the town inspection requirement as of January 1, 2011, in lieu of an inspection report by the complex manager and state or federal inspectors. These reports must be filed with the code enforcement officer yearly along with a list of current tenants. All other rules of the ordinance from which this section derives continue to apply to these rental units.
- (3) Residential occupancies in buildings of mixed occupancy, i.e., commercial structures with rent.
- (4) All manufactured housing sited within the town and offered for rent after the effective date of the ordinance from which this section derives will comply with the minimum safety standards contained in sections 6-71, 6-72, 6-76, 6-77 through 6-82, and section 6-83.
- (5) Following the effective date of the adoption of this section, landlords initially shall have a thirty-day period in which to: (1) notify the code enforcement officer that they rent or intend to rent a mobile home; and (2) obtain a permit. They then have six (6) months to bring such mobile home into compliance. The permit will be valid until the end of 1995. Thereafter, all permits will expire on the normal expiration date.
- (Ord. No. C87-8, Art. I, § 1, 12-3-87; Ord. No. C88-7, § 1, 11-3-88; Ord. No. C93-13, 10-7-93; Ord. No. C94-7, 9-8-94; Ord. No. C94-13, 1-12-95; Ord. No. C2010-18, 11-10-10)

## HOUSING

§ 6-29

**Sec. 6-29. Compliance.**

(a) *Responsibility of occupant.* An occupant of a dwelling unit shall be responsible for compliance with this article in regard to the following:

- (1) Limiting occupancy of that part of the premises which he occupies to the maximum permitted by this article;
- (2) Maintenance of that part of the premises which he occupies in a clean, sanitary and safe condition;
- (3) Maintenance of all cooking and refrigeration appliances owned by him, as well as other building equipment and storage facilities owned by him in that part of the premises which he rents in a clean and sanitary condition, and providing reasonable care in the operation and use thereof;
- (4) Keeping exits from his dwelling unit clear and unencumbered;

## HOUSING

## § 6-46

- (5) Disposal of garbage and refuse into provided facilities in a clean and sanitary manner.
- (6) Keeping his domestic animals and pets in an appropriate manner and under control.
- (7) No heating equipment, including space heaters, may be installed without approval and supervision of the landlord or his agent.
- (8) Occupants will use provided on-premises parking and not use public streets for overnight parking.

(b) *Responsibility of owners.*

- (1) Owners of premises shall be ultimately responsible for compliance with this article, and shall remain responsible therefor regardless of the fact that this article may also place certain responsibilities on operators and occupants. This shall be so regardless of any agreements between owners and operators or occupants as to which parties shall assume such responsibility.
- (2) Owners of premises shall be responsible for proper maintenance, condition and operation of service facilities, all plumbing fixtures, heating facilities, appliances and other equipment owned by him.

(Ord. No. C87-8, Art. II, 12-3-87)

Sec. 6-30. Violation; penalty.

Any person found guilty of violating any provisions of this article shall be subject to a fine of not more than one hundred dollars (\$100.00) for each offense. Each day the offense is allowed to continue after notification from the health and safety inspector is considered a separate offense.

(Ord. No. C87-8, Art. Iv, § 4, 12-3-87)

Secs. 6-31-6-45. Reserved.

DIVISION 2. ADMINISTRATION

Sec. 6-46. Building inspection.

(a) This article shall be administered by the health and safety inspector. Inspections may be made with the assistance of consultants, i.e., licensed plumber, licensed electrician, fire department official and/or other state officials.

§ 6-46

DEXTER CODE

(b) The health and safety inspector is authorized to conduct annual inspections of each rental unit prior to issuing rental permits.

(Ord. No. C87-8, Art. III, §§ 1, 2, 12-3-87)

#### Sec. 6-47. Rental permit.

Owners of rental units shall be required to obtain a rental permit for each rental unit owned on an annual basis. After receipt of application from the owner, the code enforcement officer shall conduct an inspection of each rental unit. After satisfactory compliance with provisions of this article, a rental permit shall be issued, at no cost, for each rental unit. After January 1, 1989, it will be illegal to offer units for rent without a valid rental permit. Inspections shall be made and permits obtained prior to occupancy of all new units after January 1, 1989.

(Ord. No. C87-8, Art. II, § 2, 12-3-87; Ord. No. C87-2a, 3-3-88)

#### Sec. 6-48. Complaint investigations.

The health and safety inspector shall investigate all complaints of alleged housing violations after the following requirements are met:

- (1) The tenant must notify the owner/landlord in writing of the alleged problem. In cases of imminent danger, the requirement for notification in writing may be waived.
- (2) Upon verification, the landlord must be given a reasonable time to correct the problem. It shall be the responsibility of the health and safety inspector to determine what is a reasonable period of time.

(Ord. No. C87-8, Art. III, § 3, 12-3-87)

#### Sec. 6-49. Issuance of order to correct violations.

The health and safety inspector shall issue an order in writing requiring the remedying of all conditions found to exist in or on any premises in violation of provisions of this article or of rules and regulations adopted hereunder. The order shall state a reasonable time for compliance. In case of imminent danger, the requirements for notifying in writing may be waived.

(Ord. No. C87-8, Art. IV, § 1(I), 12-3-87)

## HOUSING

## § 6-53

**Sec. 6-50. Evacuation, posting of unfit premises.**

Where violations of this article exist and present an immediate hazard or danger to the health, safety or welfare of building occupants or of the public, the health and safety inspector may declare the premises unfit for human habitation and order the evacuation of all occupants. The premises shall be posted with notices of such orders prominently displayed at every entrance. (Ord. No. C87-8, Art. IV, § 1(II), 12-3-87)

**Sec. 6-51. Posted premises not to be used for human habitation.**

No premises which have been condemned as unfit for human habitation shall again be rented until written approval is secured from the health and safety inspector. (Ord. No. C87-8, Art. IV, § 1 (III), 12-3-87)

**Sec. 6-52. Variances.**

In recognition of the likelihood that there are existing rental units that will not be in strict compliance with all provisions of this article, and that compelling circumstances may make strict compliance a hardship, the health and safety inspector shall be empowered to grant temporary variances on a year-to-year basis. All such temporary variances and the reasons therefor shall be reported to the planning board. Requests for permanent variances will be reviewed by the planning board. Variances will not be granted in any case where the nonconforming condition presents an immediate or potential hazard or danger to the health, safety or welfare of building occupants or of the public. (Ord. No. C87-8, Art. IV, § 1(IV), 12-3-87)

**Sec. 6-53. Appeals.**

Any person affected by any notice or order of the health and safety inspector which has been issued in connection with the enforcement of any provision of this article may request and shall be granted a hearing on the matter before the town board of appeals. Such person shall file with the board a statement of grounds therefor within ten (10) days after the request for a hearing. The board of appeals may, by a majority vote of its entire



§ 6-53

DEXTER CODE

membership, reverse the decision of the health and safety inspector, or permit exceptions to or variations from the specific terms of this article in such cases where the enforcement of the provisions of this article may result in undue hardship, subject always to the rule that the board of appeals shall give due consideration to the purposes of this article in promoting health, safety and general welfare.

(Ord. No. C87-8, Art. Iv, § 2, 12-3-87)

**Sec. 6-54. Condemnation and demolition of dangerous buildings.**

(a) Whenever the health and safety inspector finds a building or structure or any portion thereof to be structurally unsafe, unstable, unsanitary or constituting a hazard to health or safety because of inadequate maintenance, dilapidation or abandoning, or otherwise dangerous to life or property, the health and safety inspector shall report such information to the town council. The town council shall thereupon be authorized to act under provisions of Title 17 M.R.S.A. Reference to structural performance and building material requirements shall be to current BOCA National Building Codes Articles 11-20 and to current NFPA 101 Life Safety Code.

(b) Any person aggrieved by such order of the town council may, within thirty (30) days after the order is made and recorded, file an appeal therefrom to any justice of the supreme judicial or supreme court who shall, after notice and hearing, affirm, annul or alter such order and may render such judgment as to costs as justice requires.

(Ord. No. C87-8, Art. Iv, § 3, 12-3-87; Ord. No. C93-2, 5-13-93)

**Secs. 6-55-6-70. Reserved.**

**DIVISION 3. STANDARDS**

**Sec. 6-71. Occupancy requirements.**

(a) In dwelling and rooming units, the numbers of occupants shall be determined by allowing two (2) persons per sleeping room except that in the situation of an efficiency apartment where the sleeping room is not separated and also may serve as dining or living room, the occupancy shall be one (1) person.

## HOUSING

## § 6-73

(b) Notice shall be located in each unit offered for rent stating the maximum number of occupants allowed under this article.

(c) In manufactured housing, the numbers of occupants shall be based on: one (1) person per sleeping room having at least fifty (50) square feet but less than seventy (70) square feet of total floor area; and/or two (2) persons per sleeping room having at least seventy (70) square feet of floor area.

(Ord. No. C87-8, Art. I, § 4, 12-3-87; Ord. No. C93-2, 5-13-93; Ord. No. C94-13, § 1-12-95; Ord. No. C99-5, 5-13-99)

**Sec. 6-72. Prohibited uses.**

(a) No kitchen, non-habitable space or public space shall be used regularly for sleeping purposes.

(b) No basement or cellar space shall be used as habitable space unless the floors and walls are free from chronic dampness and protected from surface runoff.

(Ord. No. C87-8, Art. I, § 5, 12-3-87)

**Sec. 6-73. Habitable space requirements.**

Habitable space requirements are as follows:

- (1) *Minimum ceiling height.* Fifty (50) percent of the floor area shall be a minimum ceiling height of six (6) feet eight (8) inches. Any floor area having a ceiling height of less than five (5) feet shall not be considered in computing floor area.
- (2) *Minimum room size.* Every dwelling unit shall contain at least one (1) habitable room having a minimum of one hundred (100) square feet of floor area. All other habitable rooms except kitchens shall contain at least sixty-four (64) square feet of floor area.
- (3) *Light and ventilation.*
  - a. Habitable space shall be provided with natural light through a minimum of one (1) window opening directly to the outdoors, which is a minimum size of twenty-four (24) inches by thirty-six (36) inches.

§ 6-73

## DEXTER CODE

- b. Every habitable room shall be provided with artificial light or electric outlets.
  - c. Every habitable room shall be provided with natural ventilation through windows or other openings in exterior walls that face directly out-of-doors and are above the adjoining finished grade, or through skylights. Mechanical ventilation may be used in lieu of natural ventilation in bathrooms.
- (4) *Separation of units.* Rooming units shall be separated from each other and from other spaces outside the rooming units.
- (5) *Accessibility of kitchens, dining rooms.* Communal kitchens or dining rooms in a rooming house shall be accessible to the occupants sharing such kitchen or dining room without going through a dwelling unit or rooming unit of another occupant.
- (Ord. No. C87-8, Art. I, § 6, 12-3-87)

## Sec. 6-74. Public space.

Requirements for public space are as follows:

- (1) *Ceiling height.* The minimum should be six (6) feet five (5) inches from the finished floor to the finished ceiling.
  - (2) *Light.* Adequate lighting is required.
- (Ord. No. C87-8, Art. I, § 7, 12-3-87)

## Sec. 6-75. Accessory rooms, stairs and exits.

- (a) Toilet and bathrooms shall;
  - (1) Have provisions for privacy;
  - (2) Be located in each dwelling unit and, for all new construction or rehabilitated housing offered for rent after January 14, 1989, be accessible from any sleeping room without passing through another sleeping room;
  - (3) Be provided with floor surfaces that are easy to clean and keep sanitary;

## HOUSING

§ 6-75

- (4) Be provided with natural ventilation with an operable area of at least one and one-half (1½) square feet or mechanical ventilation exhausting at least twenty-five (25) cfm;
  - (5) Have at least one (1) electric light fixture. In all new construction or rehabilitated housing offered for rent after January 14, 1989, and in existing units when practicable, a bathroom shall have at least one (1) ground-fault insulated (G.F.I) electric outlet.
- (b) Laundry and furnace rooms shall:
- (1) Have one (1) electric light fixture and one (1) electric outlet;
  - (2) Be provided with natural ventilation with an operable area of at least one and one-half (1½) square feet or mechanical ventilation exhausting at least twenty-five (25) cfm.
- (c) Central heating and air-conditioning equipment rooms in multiple dwellings shall be externally ventilated and air from these rooms shall not be circulated to other parts of the building.
- (d) Attics, crawl spaces and spaces under flat roofs shall be provided with natural ventilation.
- (e) Stairways shall be provided with a handrail and/or guard where the building inspector feels it necessary for safety.
- (f) Exits shall conform to NFPA Code 101 Requirements governing exits in all buildings.
- (g) Sleeping rooms shall:
- (1) Be no smaller than eighty (80) square feet (except for manufactured housing units which meet the standards of section 6-83);
  - (2) Have a window opening directly to the outdoors which is a minimum size of twenty-four (24) inches by thirty-six (36) inches, or an exit door opening directly to the outdoors or to a hallway leading directly to the outdoors;

§ 6-75

DEXTER CODE

- (3) Have one (1) electric light fixture and one (1) electric outlet;
  - (4) Have provisions for privacy.
- (Ord. No. C87-8, Art. I, § 8, 12-3-87; Ord. No. C93-2, 5-13-93; Ord. No. C99-5, 5-13-99)

Sec. 6-76. Maintenance generally.

Dwellings shall be maintained so that the safety and health of occupants is not endangered.  
(Ord. No. C87-8, Art. I, § 9, 12-3-87)

Sec. 6-77. Equipment and systems.

Equipment and systems for dwellings shall be located, installed and maintained so that under normal conditions of use they will not endanger health and safety of the occupants and the structural integrity of the dwelling, and so that they do perform their intended function. Equipment and systems shall conform to the following:

(1) *Plumbing systems.*

- a. Plumbing systems shall be installed and maintained to function properly and shall be kept free from obstructions, leaks and defects to prevent health hazards.
- b. All repairs and installations of plumbing systems shall be made in accordance with provisions of the state plumbing code.
- c. Each dwelling unit shall be provided with one (1) water closet and lavatory. Also, each dwelling unit shall be provided with a bathtub or shower and a kitchen sink. The bathtub or shower and the kitchen sink shall be piped to both hot and cold running water.

(2) *Heating facilities.*

- a. Every rental dwelling shall have heating facilities and the owner of the dwelling shall be required to see that they are properly installed, safely main-

## HOUSING

§6-77

tained and in good working condition, and that they are capable of safely and adequately heating all habitable rooms, bathrooms and toilet rooms. "Unvested" fuel-burning space heaters shall be prohibited.

- b. All present and future installations of wood-burning stoves, fireplaces, furnaces, etc., shall be the responsibility of the owner of the building. No wood-burning equipment shall be installed without supervision of the owner and the owner shall be responsible for the safety thereof. All new wood-burning installations must be inspected by the health and safety inspector before the first fire is built, pursuant to Title 17 M.R.S.A. Section 235. Recommended standards published by the state fire marshal's office will be used as a guideline for installation. If installations are not acceptable, owner will be fined at a rate not to exceed more than one hundred dollars (\$100.00) per day if the installations are placed into use without authorization.
- c. Every fuel gas piping system located in a rental dwelling or multifamily dwelling shall be properly installed, connected and maintained, and shall be capable of performing the function for which it is designed. This is the responsibility of the owner. There shall be installed on all appliances appropriate safety devices.
- d. Fuel-burning, heat-producing equipment shall be installed and maintained so that the emission or discharge into the atmosphere of smoke, dust, odor or other products of combustion will not create a nuisance or be detrimental to the health, comfort, safety or property of any person.
- e. At least one (1) smoke alarm will be installed in each apartment and kept in working order. In all new construction or renovated housing offered for rent after January 14, 1989, smoke alarms will be directly wired.

(Ord. No. C87-8, Art. I, § 10, 12-3-87; Ord. No. C93-2, 5-13-93)

## § 6-78

## DEXTER CODE

**Sec. 6-78. Maintenance of facilities and equipment.**

(a) All required equipment and all building space and parts in every dwelling and multifamily dwelling shall be constructed and maintained so as to properly and safely perform their intended functions.

(b) All housing facilities shall be maintained in a clean and sanitary condition by the occupant so as not to breed insects and rodents or produce dangerous or offensive gases or odors.

(Ord. No. C87-8, Art. I, § 11, 12-3-87)

**Sec. 6-79. Electrical hazards.**

Where it is found that the electrical system in a building constitutes a serious hazard to the occupants or the building by reason of inadequate service, improper fusing, insufficient outlets, improper wiring, or installation, deterioration, or damage, or for similar reasons, it shall be required that the defects be corrected to eliminate the hazard.

(Ord. No. C87-8, Art. I, § 12, 12-3-87)

**Sec. 6-80. Yards and courts.**

(a) Yards and courts shall be kept clean and free of physical hazards and the accumulation of debris or trash.

(b) In all new construction or renovated housing offered for rent after January 14, 1989, at least one and one-half (1½) parking spaces per rental unit will be provided on the premises. (Ord. No. C87-8, Art. I, § 13, 12-3-87)

**Sec. 6-81. Extermination of pests; screening.**

(a) Every owner of a rental dwelling shall be responsible for the extermination of rodents, vermin or other pests in all exterior and interior areas of the premises.

(b) All windows and other openings used for ventilation shall be appropriately screened.

(Ord. No. C87-8, Art. I, § 14, 12-3-87)

## HOUSING

§ 6-83

## Sec. 682. Garbage and refuse.

(a) The building owner shall provide adequate sanitary facilities and methods for the collection, storage, handling and disposal of garbage and refuse.

(b) In rental dwellings, garbage and refuse shall not be stored or allowed to accumulate in public halls and stairways.

(Ord. No. C87-8, Art. I, § 15, 12-3-87)

## Sec. 683. Design standards for manufactured housing.

(a) All manufactured homes constructed after June 15, 1976, and bearing the seal of the Department of Housing and Urban Development which certifies the manufactured home was built pursuant to the provisions of the Manufactured Home Construction and Safety Standards as revised shall be deemed to have fulfilled the safety standards of this section, unless significant alteration has been made to the manufactured home subsequent to its initial sale. In addition, all manufactured homes shall:

- (1) Have and maintain external siding which is residential in appearance for the manufactured home as well as any additions thereto;
- (2) Be located on a permanent foundation which may include at a minimum, a gravel pad and skirting of a material which is residential in appearance;
- (3) Have a minimum of two (2) exterior doors not less than twelve (12) feet from each other. One (1) of the required exit doors must be accessible from the doorway of each bedroom without travelling more than thirty-five (35) feet;
- (4) Have at least one (1) outside window in every room designed expressly for sleeping purposes, unless it has an exit door. The bottom of the window shall not be more than forty-four (44) inches above the floor;
- (5) Have at least one (1) operable smoke detector centrally located within the home;
- (6) Have, in those homes with cabinet areas over cooking ranges or stovetops, a protective metal hood with not less than a three-inch eyebrow projecting horizontally from the cabinet face;



§ 6-83

DEXTER CODE

- (7) Have a vertical clearance above any cooking surface of not less than twenty-four (24) inches to the bottom of combustible cabinets;
  - (8) Conform to NFPA Life Safety Code Chapter 21.1-21.5.1 fire safety standards.
  - (9) In manufactured housing, sleeping rooms shall have a minimum gross square foot floor area of at least fifty (50) square feet; rooms to be used by two (2) persons shall have at least seventy (70) square feet of floor area.
- (Ord. No. C94-7, 9-8-94; Ord. No. C94-13, 1-12-95; Ord. No. C99-5, 5-13-99)

## APPENDIX C

### LAND USE\*

#### Section 1. General.

A. *Title.* This ordinance shall be known and cited as the Land Use Ordinance of the Town of Dexter, Maine, and will be referred to as "this ordinance."

B. *Authority.* This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of 30-A M.R.S.A. § 3001 (Home Rule), the state's growth management law, 30-A M.R.S.A. § 4311 et seq., and under Article VI, Section 6.01 of the Charter of the Town of Dexter.

C. *Purposes.* The purpose of this ordinance is to promote the health, safety, and general welfare of the residents of the community, while:

1. Protecting the values of property ownership, the values of a rural-agricultural based way of life, and the right to use one's property in a manner that does not conflict with a neighbor's rights;
2. Encouraging economic growth;
3. Balancing growth with infrastructural needs.

D. *Applicability.* The provisions of this ordinance shall govern all land and all structures within the boundaries of the Town of Dexter.

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**\*Editor's note**—Included herein is the city's land use ordinance as adopted via a referendum of November 2, 1999. Style and capitalization have been made uniform. Grammatical errors and obviously misspelled words have been corrected without notation. Words added for clarification have been added in brackets. Amendments to the land use ordinance as adopted by the referendum of November 2, 1999, are indicated by a history note immediately following the amended section.

**Cross references**—Administration generally, Ch. 2; floodplain management, Ch. 4; housing generally, Ch. 6; solid waste generally, Ch. 10; streets and sidewalks generally, Ch. 11; shoreland zoning, App. A; regulations for reviewing subdivisions, App. B.

## § 1

## DEXTER CODE

E. *Conflicts with other ordinances.* Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

F. *Validity and severability.* Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

G. *Effective date.* The effective date of this ordinance shall be the date of the adoption by vote of the town council.

H. *Amendments.* This ordinance may be amended by majority vote of the town council.

**Section 2. Land use district requirements.**

A. *Purpose.* Four (4) land use districts are hereby created within the Town of Dexter. These districts are designed to:

1. Provide for an orderly future growth pattern of the community.
2. Provide for a separation of land uses that might otherwise be incompatible.
3. Protect the natural resources of the community from degradation.

B. *District objectives.* The following land use districts are hereby established in the Town Of Dexter:

1. "Commercial."

Purpose: The Commercial District is intended to serve as the community focal point for cultural, business and service activities and is designed to optimize utilization of in-place facilities, thereby reducing the fiscal burden of new infrastructure construction on all citizens of Dexter.

2. "Residential."

Purpose: The Residential District is intended to provide an area that restricts intensive uses so that residents may enjoy a measure of quietness and privacy in their

## APPENDIX C—LAND USE

§ 2

homes, while optimizing the utilization of in-place facilities, thereby reducing the fiscal burden of new infrastructure construction on all citizens of Dexter.

3. "Rural."

Purpose: The Rural District is intended to preserve areas which are presently rural or agricultural in character and use. This district is designed to accommodate a variety of residential development opportunities for those who desire low density living and are willing to live in more remote locations and to assume the costs of providing many of their own services and amenities, thereby reducing the fiscal burden of new infrastructure construction on all citizens of Dexter.

4. "Industrial."

Purpose: The Industrial District is intended to provide land which is conveniently located with respect to transportation corridors and where municipal services are available and other conditions are favorable to the development of industry, and which at the same time is so located as to prevent undesirable conflict with residential and other business uses, thereby reducing the fiscal burden of new infrastructure construction on all citizens of Dexter.

C. *Boundaries.* As of the effective date of this ordinance, the location and boundaries of the above districts are established as shown on "Town of Dexter Land Use Map" and are part of the ordinance. Unless otherwise set forth in the official Town of Dexter Land Use Map, district boundary lines are property lines as existing on the 1997 Dexter tax rolls.

D. *District descriptions.*

1. *Commercial District.* The Commercial District encompasses those properties having frontage on the following roads and extends:

1. North along the east side of Rt. 7 beginning at the property found on tax map 102 as lot 20, excluding

## § 2

## DEXTER CODE

- any portion of the property found on tax map 102 as lot 19, ending at and including the property found on tax map 7 as lot 24.
2. North along the west side of Rt. 7, beginning at the property found on tax map 102 as lot 8 (2004 map), ending at and including the property found on tax map 7 as lot 63.
  3. Southeast along both sides of the Garland Rd. from the intersection of Rt. 7, ending at and including the properties found on tax map 16 as lots 44-A and 45.
  4. Along Main Street:
    - a. On the north side, southwest from Spring St. ending at and including the property found on tax map 10 as lot 18.
    - b. On the south side, southwest from Spring St. to the northeast corner of Center St., then east along the north side of Center St. to the intersection of Center St. and Spring St.
  5. Along Grove Street:
    - a. On the north side, north from Rt. 7 ending at and including the property found on tax map 8 as lot 13.
    - b. On the south side, north from Rt. 7 ending at the property found on tax map 8 as lot 1.
  6. Along Russ Street:
    - a. On the west side, including the following properties—tax map 15, lots 23, 24 and 25.
  7. Along Lincoln Street:
    - a. On the south side, found on tax map 12, lot 93.
  8. At the end of Abbott Hill Road, the nonshoreland areas of Map 8 Lot 16, the site of the former Dexter Primary and Middle Schools.
2. *Residential District.* The Residential District encompasses those properties which in 1997 were serviced by or were accessible by the Dexter Utility District water and or sewer lines, if those lots are not greater than three

## APPENDIX C—LAND USE

§ 2

hundred (300) feet from those utility lines, and which are not located in the Commercial or the Industrial Districts.

3. *Rural District.* The Rural District encompasses all properties not found in the Commercial, Residential or the Industrial Districts.
4. *Industrial District.* The Industrial District encompasses the following properties on the maps indicated:
  1. Tax map 401 as lots 22, 127, 128 and 129.
  2. Tax map 12 as lots 89, 90 and 106.
  3. Tax map 14 as lots 10 and 55B.
  4. Tax map 15 as lots 1 and 31.
  5. Tax map 17 as lot 3.
  6. Tax map 18 as lots 3, 8, 9, 9A, 10, 12, 13, 14, 16 and 17.
  7. Tax map 28 as lots 1 & 1-A.

E. *Land uses.* The land uses permitted in each district must conform to the following table:

Supp. No. 37

1606

TABLE OF LAND USES

§ 2

DEXTER CODE

Key  
Yes = Allowed with Permit  
No = Not Allowed

Type of Use or Structure	Districts			
	Commercial	Residential	Rural	Industrial
Residential				
Accessory	Yes	Yes	Yes	Yes
Cluster housing	Yes	Yes	Yes	No
Congregate housing	Yes	Yes	Yes	No
Corridor	No	No	No	No
Duplex, two-family dwelling	Yes	Yes	Yes	No
Essential services	Yes	Yes	Yes	Yes
Manufactured housing	Yes	Yes	Yes	No
Multifamily dwelling	Yes	Yes	Yes	No
Outdoor wood furnaces	Yes	Yes	Yes	Yes
Signs	Yes	Yes	Yes	Yes
Single-family dwelling	Yes	Yes	Yes	No
Commercial				
Accessory	Yes	Yes	Yes	Yes
Agriculture/aquaculture	Yes	No	Yes	No

Supp. No. 37

1607

Type of Use or Structure	<i>Districts</i>			
	Commercial	Residential	Rural	Industrial
Agriculture/aquaculture products processing and storage	No	No	*Yes	No
Airport	No	No	No	Yes
Amusement facility	Yes	No	No	No
Animal breeding or care	No	No	Yes	No
Automobile graveyard/junkyard	No	No	*Yes	No
Automobile repair, body shop, sales, car wash	*Yes	No	*Yes	*Yes
Bed and breakfast	Yes	Yes	Yes	No
Boarding, lodging	Yes	Yes	Yes	No
Boat building, repair	Yes	No	Yes	Yes
Building materials, retail sales	Yes	No	Yes	Yes
Commercial recreation (Campground)	Yes	No	Yes	No
Commercial school	Yes	No	Yes	No
Corridor	No	No	No	No
Essential services	Yes	Yes	Yes	Yes
Extractive industries	No	No	*Yes	No
Farm stands	Yes	No	Yes	No
Firewood processing	No	No	Yes	Yes
Fisheries processing/storage	No	No	No	Yes
Forestry	No	No	Yes	No

APPENDIX C—LAND USE

§ 2



Supp. No. 37

1608

Type of Use or Structure	<i>Districts</i>			
	Commercial	Residential	Rural	Industrial
Gasoline service station	*Yes	No	*Yes	*Yes
Golf course (excluding miniature golf)	No	No	Yes	No
Greenhouses	Yes	No	Yes	No
Home occupation	Yes	Yes	Yes	No
Hotel/motel	Yes	No	Yes	Yes
Indoor theater	Yes	No	Yes	No
Kennel, stable	No	No	Yes	No
Manufacturing	**Yes	No	No	*Yes
Mobile home park	No	Yes	Yes	No
Mobile/modular home sales	Yes	No	No	Yes
Neighborhood convenience store	Yes	Yes	Yes	No
Offices: business, professional, medical	Yes	Yes	Yes	Yes
Parks and recreation	Yes	Yes	Yes	No
Publishing, printing	*Yes	No	No	*Yes
Radio/television tower	No	No	Yes	No
Restaurant	Yes	No	Yes	Yes
Retail business	*Yes	No	*Yes	*Yes
Sawmill	No	No	Yes	Yes
Service business	*Yes	No	*Yes	*Yes
Shopping center	Yes	No	No	No
Small engine repair	Yes	No	Yes	Yes
Veterinary hospital	Yes	No	Yes	No

§ 2

DEXTER CODE

Supp. No. 37

1609

	<i>Districts</i>			
<b>Type of Use or Structure</b>	<b>Commercial</b>	<b>Residential</b>	<b>Rural</b>	<b>Industrial</b>
Warehousing and storage	*Yes	No	No	*Yes
Wholesale business	Yes	No	Yes	Yes
<b>Industrial</b>				
Accessory	No	No	No	Yes
Bulk oil/gas terminal	No	No	No	Yes
Corridor	No	No	No	No
Demolition/waste disposal	No	No	No	Yes
Essential services	No	No	No	Yes
Manufacturing	**Yes	No	No	*Yes
Recycling operations	No	No	No	Yes
Sawmill	No	No	No	Yes
Trucking distribution terminal	No	No	No	Yes
Transportation, communication facilities	No	No	No	Yes
Warehousing and storage	No	No	No	*Yes
<b>Education, institutional, public</b>				
Accessory	Yes	Yes	Yes	Yes
Cemetery	No	No	Yes	No
Church, synagogue, parish house	Yes	Yes	Yes	Yes
Community center/club	Yes	Yes	Yes	No
Corridor	No	No	No	No

APPENDIX C—LAND USE

§ 2

Supp. No. 37

1610

Type of Use or Structure	Districts			
	Commercial	Residential	Rural	Industrial
Day care	Yes	Yes	Yes	Yes
Essential services	Yes	Yes	Yes	Yes
Fire, police station	Yes	Yes	Yes	Yes
Government office	Yes	No	No	No
Group homes, hospice	Yes	Yes	Yes	No
Health care facility	Yes	Yes	Yes	No
Hospital	Yes	Yes	Yes	No
Museum	Yes	No	Yes	Yes
Public utility facility	Yes	Yes	Yes	Yes
Public, private school	Yes	Yes	Yes	No

Notes to Table of Land Uses:

- \* *Watershed protection area.* When a given area or lot of land is located entirely or partially within the watershed areas of Lake Wassookeag and Echo Lake (also known as Puffers Pond), as recognized by the Maine D.E.P., the following new commercial or industrial uses, as indicated by \* appearing in the table, are not permitted:
- a. Auto washing facilities.
  - b. Auto or other vehicle service and/or repair operations, including body shops.
  - c. Automobile graveyards/junkyards.
  - d. Chemical and bacteriological laboratories.

§ 2

DEXTER CODE

Supp. No. 37

1611

- e. Storage of chemicals, including herbicides, pesticides, or fertilizers, other than amounts normally associated with individual households or farms.
- f. Commercial painting, wood preserving, and furniture stripping.
- g. Dry cleaning establishments.
- h. Electronic circuit assembly.
- i. Laundromats, unless connected to a sanitary sewer.
- j. Metal plating, finishing, or polishing.
- k. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas.
- l. Photographic processing.
- m. Printing.
- n. Extractive industries.

\*\* With planning board approval.

*Methadone clinics.*

- a. Methadone clinics are allowed with a permit issued by the Dexter Planning Board after notice and public hearing.
- b. Methadone clinics are prohibited within three hundred fifty (350) feet of Lake Wassookeag, within two hundred fifty (250) feet of all other waterbodies, within two hundred fifty (250) feet

Supp. No. 37

of any wetland, and within the watershed protection area of Lake Wassookeag and of Echo Lake (also known as Puffers Pond), as recognized by the Maine Department of Environmental Protection.

§ 2

F. *Reserved.*

G. *Dimensional standards.* The following dimensional standards shall apply throughout the entire Town of Dexter:

1612

<i>DISTRICTS</i>	<i>Commercial</i>	<i>Residential</i>	<i>Rural</i>	<i>Industrial</i>
<i>DIMENSIONS</i>				
1. Minimum lot area				
(a) With public sewer	10,000 sq. ft.	7,500 sq. ft.	7,500 sq. ft.	10,000 sq. ft.
(b) Without public sewer	20,000 sq. ft.	20,000 sq. ft.	1 acre	20,000 sq. ft.
2. Minimum lot front-age	75 feet	100 feet	150 feet	100 feet
3. Minimum structure setbacks				
Front setback	10 feet	10 feet	10 feet	10 feet
Side setback	None	10 feet	10 feet	10 feet
Rear setback	None	10 feet	10 feet	10 feet
4. <i>Methadone clinics.</i> All properties or structures proposed for use as methadone clinics shall meet the following standards:				
Minimum lot size	5 acres	5 acres	5 acres	5 acres

DEXTER CODE

Supp. No. 37

<i>DISTRICTS</i>	<i>Commercial</i>	<i>Residential</i>	<i>Rural</i>	<i>Industrial</i>
Minimum frontage	500 feet	500 feet	500 feet	500 feet
Minimum setback to property lines	500 feet	500 feet	500 feet	500 feet
Minimum setback to existing residential structures	500 feet	500 feet	500 feet	500 feet
5. The minimum dimensional requirements must be met for each principal residential use (meaning for each dwelling unit), and for each principal commercial or principal industrial use or activity.				

1612.1

## § 2

## DEXTER CODE

- A. *Required frontage.* All lots hereinafter created after the effective date of this ordinance shall possess a minimum frontage: (1) on a road as defined in this Ordinance, or (2) on a deeded private right-of-way a minimum of fifty (50) feet in width for the entire length of the right-of-way. The existing fire lanes in Dexter are accepted as meeting this requirement for a deeded private right-of-way for seasonal use only. For purpose of this subsection, seasonal use is defined as between the dates of May 15 and October 1.
- B. *Cul-de-sac frontage.* New building lots located at the end of culs-de-sac shall be designed so that they have a minimum of one hundred (100) feet of street frontage along the front lot line in the rural district or a minimum of fifty (50) feet of street frontage in all other districts; and, all other dimensional requirements shall apply.
- C. *Setback measurements.* All setbacks shall be measured from the property line to the nearest part of the building.
- D. *Front setback.* The minimum front setback along a public road shall be measured from the edge of the right-of-way line, according to the above table. The depth of any yard abutting a public road shall conform to the front setback.
- E. *Driveways, parking areas.* Driveways and parking areas may be located within any required setback area but shall not be located within six (6) feet of the side or rear lot lines.
- F. *Signs.* The following provisions shall govern the use of signs in the Residential District:
  - i. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
  - ii. Personal signs shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises.
  - iii. Residential users may display a single sign not over three (3) feet square in area relating to the sale, rental, or lease of the premises.

## APPENDIX C—LAND USE

§ 3

- iv. Signs relating to trespassing and hunting shall be permitted without restriction as to the number provided that no sign shall exceed two (2) square feet in area.
- v. Signs relating to public safety shall be permitted without restriction.
- vi. No sign shall be higher than ten (10) feet above the ground.
- vii. Signs may be illuminated only by shielded, non-flashing lights.

(Ord. No. C2002-26, 10-10-02; Ord. No. C2003-17, 8-14-03; Ord. No. C2004-5, 3-11-04; Ord. No. C2005-15, 7-14-05; Ord. No. C2005-18, 8-11-05; Ord. No. C2006-2, 1-12-06; Ord. No. C2007-2, 4-12-07; Ord. No. C2007-7, 8-9-07; Ord. No. C2007-12, 10-11-07; Ord. No. C2012-13, 8-9-12; Ord. No. C2014-8, 4-10-14; Ord. No. C2015-11, 6-11-15)

**Section 3. Nonconformance.**

A. *Purpose.* It is the intent of these provisions to promote land use conformities, except that nonconforming conditions that legally existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section.



## APPENDIX C-LAND USE

§ 3

*B. General requirements.*

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 pursuant to this ordinance, the normal upkeep and maintenance of non-conforming uses and structures.

*C. Non-conforming structures.**1. Expansions:*

- (a) A non-conforming structure may be added to or expanded after obtaining a permit from the permitting authority.
- (b) Said addition or expansion shall not increase the non-conformity of the structure with respect to minimum yard dimensions and property setbacks.
- (c) Structures shall not be enlarged in a manner that violates or worsens the standard regarding the minimum lot area per dwelling unit (e.g., expansion of a single-family dwelling on a non-conforming lot to create a multi-family dwelling).
- (d) The installation or construction of accessory structures, such as garage or shed outbuildings, shall be deemed an expansion or addition of a non-conforming structure.

*2. Relocation:*

- (a) A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located.
- (b) The site of relocation shall conform to all setback or other dimensional requirements to the greatest practical extent as determined by the permitting authority.

## § 3

## DEXTER CODE

- (c) The applicant shall demonstrate, if necessary, that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules or that a new system can be installed in compliance with the law and said rules.
  - (d) To determine compliance, the permitting authority shall base its decision on the size of the lot, the slope of the land, the potential for soil erosion, 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.
- 3. *Reconstruction or replacement:*
  - (a) Any non-conforming structure may be reconstructed or replaced provided that a permit is obtained from the permitting authority within two (2) years from the date of the event or occurrence causing the need to replace or reconstruct such structure.
  - (b) Such reconstruction or replacement shall comply with the setback or other dimensional requirements to the greatest practical extent as determined by the permitting authority.
  - (c) The applicant shall demonstrate that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said rules.
- D. *Non-conforming uses.*
  - 1. *Expansion:* An existing non-conforming use may be expanded, after obtaining a permit from the permitting authority, unless it is found that the plan does not meet the intent of this ordinance.
  - 2. *Change of use:*
    - (a) An existing non-conforming use may be changed to another non-conforming use after obtaining a permit.

## APPENDIX C-LAND USE

§ 3

- (b) The permitting authority shall approve a change of use unless it is found that the proposed use is not equally or more appropriate to the district than the existing non-conforming use.
  - (c) The proposed use shall have no greater adverse impact on adjacent properties than the former existing non-conforming use.
  - (d) A permitted or conforming use shall not be changed to create a non-conforming use.
3. *Discontinuance:*
- (a) A non-conforming use that has been discontinued or abandoned for two (2) or more years shall not be resumed and such non-conforming use shall be deemed extinguished.
  - (b) The removal or demolition of a non-conforming structure, for whatever reason, shall not constitute an abandonment of a non-conforming structure or use, provided that the required permit for such replacement structure is obtained from the permitting authority within two (2) years from the date of removal of such non-conforming structure.
4. *Succession:* Where a non-conforming use is succeeded by a permitted use, the property shall thereafter conform to the permitted uses, and such non-conforming use shall not thereafter be resumed.
- E. *Non-conforming lots.*
1. *Vacant lots:*
- (a) A vacant, non-conforming lot of record legally existing on the effective date of this ordinance may be built upon without the need for a variance.
  - (b) Said lot must be held in separate ownership and not contiguous with any other lot in the same ownership.
  - (c) All provisions of this ordinance except lot size and frontage must be met.

## § 3

## DEXTER CODE

- (d) Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the board of appeals.
- (e) If more than one (1) residential dwelling unit or other use is built, located or created on a non-conforming lot of record, the minimum lot size shall be met for each residential dwelling unit, and the frontage and all setback requirements of the district shall be met.

2. *Contiguous lots-Built:*

- (a) If two (2) or more contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment 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.
- (b) All such lots shall meet the requirements of the Subsurface Wastewater Disposal Rules.
- (c) When such lots are divided, each lot thus created must conform to the dimensional requirements of this ordinance, to the greatest practicable extent.

3. *Contiguous lots-Vacant or partially built:*

- (a) If two (2) or more contiguous lots or parcels are in the same ownership of record at the time of the adoption or amendment of this ordinance, and
- (b) They do not individually meet the dimensional requirements of this ordinance or subsequent amendments, and
- (c) If one (1) or more of the lots are vacant or contain no principal structure, then
- (d) The lots shall be combined to the extent necessary to meet the dimensional requirements.

## APPENDIX C—LAND USE

§ 3

If any such lots are located in any Shoreland Zoning district this provision shall not apply if at least one (1) of the lots is nonconforming and all are owned by the same person or persons on the effective date of this ordinance and recorded in the registry of deeds, provided that:

- 1) The lot or lots are served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and
- 2) Each lot contains at least one hundred (100) feet of shore frontage and at least twenty thousand (20,000) square feet of lot area; or
- 3) Any of the lots that do not meet the shore frontage and lot size requirements of the Shoreland Zoning Ordinance are reconfigured or combined so that each new lot contains at least one hundred (100) feet of shore frontage and at least twenty thousand (20,000) square feet of lot area.

4. *Single lot with multiple, principal structures—Division:*

- (a) If two (2) or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold as/on a separate lot.
- (b) All resulting lots shall meet the requirements of the State Subsurface Wastewater Disposal Rules.
- (c) A permit shall be required prior to the creation of a nonconforming lot through the division of a lot of record with multiple, principal structures or uses thereon.
- (d) The permitting authority shall issue the required permit upon its findings that each lot created by the division conforms, to the greatest practicable extent, to the setback and dimensional requirements of this ordinance, other than lot area.

(Ord. No. C2003-14, 4-10-03)

**Section 4. Administration, enforcement and penalties.***A. Administering bodies and agents.*

1. *Code enforcement officer.* The code enforcement officer shall have the following powers and duties:
  - (a) Enforce the provisions of this ordinance.
  - (b) As the permitting authority, review all applications for land use permits and issue permits when appropriate, and refer requests for variances and administrative appeals to the board of appeals.
  - (c) With the consent of the owner, occupant or agent, enter any property or enter any building, at reasonable hours, to inspect the property or building for compliance with this ordinance.
  - (d) Investigate complaints and reported violations and issue violation notices.
  - (e) Keep written inspection reports and thorough records.
  - (f) Inform any aggrieved party of his/her rights to appeal any decision by the code enforcement officer, and provide the aggrieved party with a copy of the procedures for appealing any such decision.
  - (g) Participate in appeals procedures and appear in court when necessary.
2. *Board of appeals.* The board of appeals shall be responsible for deciding administrative and variance appeals in accordance with the requirements of section 5 of this ordinance.
3. *Town manager.* The town manager shall be responsible for overseeing the resolution of legal actions, as outlined in section 4.F.(2) of this ordinance.
4. Planning board review is required for commercial recreation and commercial convention center applications and expansions.

## APPENDIX C—LAND USE

§ 4

B. *Permits required.*

1. After the effective date of this ordinance no person shall, without first obtaining a permit:
  - (a) Engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur;
  - (b) Expand, change, or replace an existing use or structure; or
  - (c) Renew a discontinued nonconforming use.
2. Whenever a proposed use or structure is regulated by any other Dexter ordinance, or any other state or federal law, rule, or regulation, the permitting procedures outlined in that Dexter ordinance, or other state or federal law, rule, or regulation must also be followed.

C. *Permit application.*

1. *Applicant requirements.* Every applicant for a permit shall submit a written application on a form provided by the municipality.
2. *Application fee.* All applications for a permit must be accompanied by the appropriate fee, according to the following table:

Principal structures (home, camp, or mobile home placement) . . . . .	\$75.00
Accessory structures (garages, sheds, etc.) . . . . .	\$35.00
Additions to existing structures . . . . .	\$35.00
Commercial activities . . . . .	\$50.00
General remodeling . . . . .	\$20.00
Commercial remodeling . . . . .	\$50.00
Demolition . . . . .	\$20.00
Occupancy permit without a building permit (by request) . . . . .	\$50.00

Subsequent or after-the-fact application fees are doubled.

## § 4

## DEXTER CODE

Applications which also require review and permitting under the Dexter Shoreland Zoning Ordinance are exempted from this fee requirement.

3. *Authorization.* All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
4. *Date.* All applications shall be dated, and the code enforcement officer shall note upon each application the date and time of its receipt.

D. *Procedure for administering permits.*

1. *Determination of complete application.* Within thirty (30) days of the date of receiving a written application, the code enforcement officer shall notify the applicant in writing:
  - (a) That the application has been accepted as a complete application; or
  - (b) That the application is incomplete, and what specified additional material is needed to make the application complete; or
  - (c) That the application has been denied, and of the reasons for the denial.

E. *Expiration of permit.* Following the issuance of a permit, if no substantial start is made in construction or in use of the property within one (1) year of the date of the permit, the permit shall lapse and become void.

F. *Enforcement.*

1. *Enforcement procedure.*
  - (a) The code enforcement officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals.



## APPENDIX C—LAND USE

§ 4

The code enforcement officer shall also investigate all complaints of alleged violations of this Ordinance.

- (b) The code enforcement officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.
- (c) If the code enforcement officer shall find that any provision of this ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating:
  - i. The nature of the violation.
  - ii. The action necessary to correct the violation, including the discontinuance of illegal use of land, buildings or structures, or work being done.
  - iii. The ordering of the removal of any illegal buildings or structures.
  - iv. The abatement of any nuisance conditions.

A copy of such notices shall be submitted to the town manager and shall be maintained as a permanent record.

- 2. *Legal actions.* When the above action does not result in the correction or abatement of the violation, the town manager, or his/her designee, upon notice from the code enforcement officer, is hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The town manager or his/her designee, is hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recording fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing

## § 4

## DEXTER CODE

evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by a municipal official authorized to administer this ordinance, and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in substantial environmental damage.

3. *Fines.* Any person, 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 30-A M.R.S.A. § 4452.

(Ord. No. C2002-26, 10-10-02; Ord. No. C2012-13, 8-9-12; Ord. No. C2015-8, 6-11-15)

**Section 5. Appeals.**

A. *Powers and duties.* In adjudicating administrative and variance appeals to this Ordinance, the board of appeals shall have the following powers and duties:

1. *Administrative appeals.*
  - (a) Whenever an uncertainty exists as to the exact location of a district boundary line, the board of appeals shall be the final authority as to location.
  - (b) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the code enforcement officer in the enforcement or administration of this Ordinance.
2. *Variance appeals.* To authorize variances upon appeal, within the limitations set forth in this Ordinance:
  - (a) Variances may be granted only from dimensional requirements including frontage, lot area, lot width, and setback requirements.
  - (b) Variances shall not be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of nonconformities in the immediate or adjacent districts.

## APPENDIX C—LAND USE

§ 5

- (c) The board shall not grant a variance unless it finds that:
  - i. The proposed structure or use would meet the standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and
  - ii. The strict application of the terms of this Ordinance would result in undue hardship. The term undue hardship shall mean all of the following:
    - a. That the land in question cannot yield a reasonable return unless a variance is granted;
    - 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;
    - 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.
- (d) The board of appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (e) If a variance is granted under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted

## § 5

## DEXTER CODE

and the date of the granting, shall be prepared in recordable form. The certificate must be recorded in the local registry of deeds within thirty (30) days of the final approval of the variance or the variance is void. The variance is not valid until recorded as provided in this provision. The costs for the recording of any variance granted shall be borne by the applicant.

B. *Appeal procedure.*

1. *Time limit.* An administrative or variance appeal may be taken to the board of appeals from any decision of the code enforcement officer. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from.
2. *Written notice.* Such appeal shall be made by filing with the board of appeals a written notice of appeal which includes:
  - a. A completed form, provided by the municipality, which indicates the relief requested and why it should be granted.
  - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures, and other physical features of the lot pertinent to the relief requested.
3. *Record of case.* Upon being notified of an appeal, the code enforcement officer shall transmit to the board of appeals copies of all of the papers constituting the record of the decision being appealed.
4. *Public hearing.* The board of appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.
5. *Decision by board of appeals.*
  - a. *Quorum.* A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

## APPENDIX C—LAND USE

§ 5

- b. *Majority vote.* The concurring vote of a majority of the members of the board of appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the code enforcement officer, remand the matter to the code enforcement officer, or to decide in favor of the applicant on any matter which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms.
  - c. *Burden of proof.* The person filing the appeal shall have the burden of proof.
  - d. *Action on appeal.* Following the public hearing on an appeal, the board may affirm, affirm with conditions, or reverse the decision of the code enforcement officer. The board may reverse the decision, or failure to act, of the code enforcement officer only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance. When errors of administrative procedures or interpretations are found, the case shall be remanded back to the code enforcement officer for correction.
  - e. *Time frame.* The board shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals within seven (7) days of the decision.
  - f. *Findings.* 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, and the appropriate order, relief or denial thereof.
- 6. *Appeal to superior court.* Decisions of the board of appeals may be appealed to the Maine Superior Court pursuant to Maine Rules of Civil Procedure 80B within forty-five (45) days of the board's decision.
  - 7. *Reconsideration.* The board of appeals may reconsider any decision reached within thirty (30) days of its prior decision. The board may conduct additional hearings and receive additional evidence and testimony.

§ 6

DEXTER CODE

**Section 6. Severability.**

Should any section, subsection, paragraph, appendix, or other provision of this chapter be declared by the courts to be invalid, such decision shall not invalidate any other part of the chapter. (Ord. No. C2015-13, 7-9-15)

## APPENDIX C—LAND USE

## App. A

**Appendix A. Definitions.**

A. *Construction of language.* In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the ordinance shall have the meaning implied by their context in the ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration, or table, the text shall control.

The word person includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

The present tense includes the future tense, the singular number includes the plural, and the plural numbers includes the singular.

The word shall and will are mandatory, the word may is permissive.

The word lot is synonymous with the words plot and parcel.

The word building is synonymous with the word structure.

The word used or occupied, as applied to any land or building, shall be construed to include the words intended, arranged, or designed to be used or occupied.

The words town or municipality means the Town of Dexter, Maine.

B. *Definitions.* In this Ordinance the following terms shall have the following meanings:

*Abutter:* The owner of any property with one (1) or more common boundaries, or across the road or stream from, the property involved in an application or appeal.

*Accessory use or structure:* A separated use or structure which is customarily both incidental and subordinate to the principal use or structure on the same lot only. The term incidental in reference to the principal use or structure shall mean both: a) subordinate and minor in significance to the principal use or

## App. A

## DEXTER CODE

structure, and b) attendant to the principal use or structure. Such accessory uses, when aggregated, shall not subordinate the alleged principal use of the lot.

*Aggrieved party:* A person whose land is directly or indirectly affected by the grant or denial of a permit or variance under this Ordinance, or a person whose land abuts or is across a road or street or body of water from land for which a permit or variance



## APPENDIX C—LAND USE

App. A

has been granted, or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

*Agriculture:* The production, keeping or maintenance for sale or lease, of plants and/or livestock, including but not limited to forages and sod crops, dairy animals and dairy products, poultry and poultry products, fruits and vegetables, and ornamental greenhouse products, including the seasonal sale on the premises at retail of crops or livestock grown thereon. This definition does not include forestry or timber harvesting activities.

*Airport:* A public or commercial operation where aircraft of any type are stored or housed, either permanently or temporarily, and which is used for aircraft takeoffs and landings.

*Alteration:* Any change or modification in construction, or change in the structural members of a building or structure such as bearing walls, columns, beams or girders, or in the use of a building. The term shall also include change, modification, or addition of a deck, dormer, staircase, or roof of the building.

*Amusement facility:* Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, including but not limited to bowling alleys, 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.

*Animal breeding or care:* The keeping or raising of four (4) or more animals, including domestic animals and pets, for any commercial use. This definition also includes kennels.

*Aquaculture:* The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species. This definition does not apply to privately owned freshwater ponds used to grow and/or store live bait.

*Authorized agent:* An individual or firm having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner(s).

## App. A

## DEXTER CODE

*Automobile repair/body shop:* A business establishment engaged in general repair, engine rebuilding or parts replacement, and/or auto body work.

*Automobile graveyard/junkyard:* A yard, field or other area used as a place of storage, other than temporary storage by an establishment or place of business which is engaged primarily in doing auto body repair work for the purpose of making repairs to render a motor vehicle serviceable, which may include an area used for automobile dismantling, salvage and recycling operations or other outside area used to store, dismantle or otherwise handle:

- a. Three (3) or more unregistered or uninspected motor vehicles, as defined in 29-A M.R.S.A. § 101(42), or parts of the vehicles;
- b. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture;
- c. Discarded, scrap and junked lumber; and
- d. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

*Bed and breakfast:* Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation and which is the full-time, permanent residence of its owner. There shall be no provisions for cooking in any individual guest room.

*Boarding, lodging facility:* Any residential structure where lodging and/or meals are provided for compensation for a period of at least one (1) week, and where a family residing in the building acts as proprietor or owner. When the criteria for a family residing in the building cannot be met, the building shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

*Building:* Any three-dimensional enclosure by any building materials or any space for any use or occupancy, temporary or permanent, including swimming pools, foundations or pilings in

## APPENDIX C—LAND USE

App. A

the ground, and all parts of any kind of structure above ground including decks, railings, dormers and stairs, and excluding sidewalks, fences, driveways, parking lots, electrical transmission and distribution lines, and field or garden walls or embankment retaining walls.

*Business and professional offices:* The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like or in which a business conducts its administrative, financial or clerical operations including banks and other financial services, but not retail sales, nor activities utilizing trucks as part of the business operation.

*Campground:* Land upon which one (1) or more tents are erected or recreational vehicles are parked for temporary use for a fee on sites arranged specifically for that purpose. Each camping site must have three thousand (3,000) square feet inclusive of common area.

*Cemetery:* Property used for the interring of the dead.

*Church:* A building or structure, or group of buildings or structures, designed, primarily intended and used for the conduct of religious services, excluding school.

*Civic, convention center:* A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, convention and entertainment facilities owned and/or operated by a governmental agency.

*Club:* Any voluntary association of persons organized for social, religious, benevolent, literary, scientific, athletic, or political purpose; whose facilities, especially a clubhouse, are open to members and guests only and not the general public; and not engaged in activities customarily carried on by a business or for pecuniary gain. Such term shall include fraternities, sororities and social clubs generally.

*Cluster housing:* A development consisting exclusively of residential dwelling units, planned, developed as a whole or in a programmed series of developments, and controlled by one (1) developer on a tract of five (5) or more lots which contemplates an

## App. A

## DEXTER CODE

innovative, more compact grouping of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural characteristics of the land.

*Code enforcement officer:* A person appointed by the municipal officers to administer and enforce this Ordinance.

*Commercial convention center:* A building or complex of buildings complete with the commercial signs and commercial parking facilities adequate to provide a location for convention, athletic, recreational and entertainment activities.

*Commercial recreation:* Any commercial enterprise which receives a fee in return for provision of some recreational activity including but not limited to: Campgrounds, racquet and tennis clubs, health facility, amusement parks, golf courses, gymnasiums and swimming etc., but not including bowling alleys or amusement centers, as defined herein.

*Commercial school:* An institution which is operated for profit, but is not authorized by the state to award baccalaureate or high degrees, which offers classes in various skills, trades, professions or fields of knowledge.

*Commercial use:* Any activity carried out for pecuniary gain.

*Community center:* A building which provides a meeting place for local, nonprofit community organizations on a regular basis. The center shall not be engaged in activities customarily carried on by a business.

*Conforming:* The state or condition whereby the criteria to be measured are consistent with the requirements of this Ordinance.

*Congregate housing:* Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly or disabled occupants; the individuals are unable to live independently yet do not require the constant supervision or intensive health care available at intermediate

## APPENDIX C—LAND USE

App. A

care or skilled nursing facilities. Congregate housing shall include only those facilities which have been certified by the State of Maine as meeting all certification standards and guidelines for congregate housing facilities as promulgated by the department of human services pursuant to the provisions of Maine State Statutes.

*Constructed:* 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.

*Corridor:* A tract of land designated for a specific purpose, as for railroad lines, highways or pipelines and any private transportation and distribution corridor.

*Day care:* Homes and centers licensed as such by the Maine Department of Human Services.

*Density:* The number of dwelling units per lot and land.

*Development:* Any manmade changes to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

*District:* A specified portion of the municipality, delineated on the land use map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

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

1. *Single-family dwelling*—Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.
2. *Two-family dwelling*—A building containing only two (2) dwelling units, for occupation by not more than two (2) families.

## APPENDIX C—LAND USE

App. A

3. *Multifamily dwellings*—A building containing three (3) or more dwelling units, such buildings being designed exclusively 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.
4. *Dwelling unit*—A room or suite of rooms used by a family 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.

*Essential services:* Facilities for the transmission or distribution of water, gas, electricity or essential communications or for the collection, treatment or disposal of wastes, including without limitation, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants and similar accessories but not buildings.

*Extractive industries:* The excavation, processing or storage of soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits, not including:

1. The excavation of material incidental to and at the site of approved construction of buildings, driveways or parking areas;
2. The excavation of material incidental to any at the site of construction or repair of streets; and
3. The excavation, processing or storage of less than ten (10) cubic yards of material on a lot within a one-year period.

*Family:* One (1) or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a tourist home, rooming house, hotel, motel or inn.

*Farm stands:* An operation, whether seasonal or permanent, engaged in the sale of agricultural products produced on that property by the owner/operator and conducted on the property of the owner/operator.

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

## App. A

## DEXTER CODE

*Fisheries processing/storage:* An operation engaged in the preparation, canning, packaging, and/or storage, for sale, of fish, shell-fish, or other similar products.

*Forestry:* The operation of timber tracks, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

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

*Garage:* An accessory building, or part of a principal building, including a car port, used primarily for the storage of motor vehicles as an accessory use.

*Gasoline service station:* Any place of business at which gasoline or other motor fuels are sold to the public for use in a motor vehicle, regardless of any other business on the premises.

*Hardship:* See subsection 5.A.2.c.2. of this Ordinance.

*Hazardous material:* Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, designated as hazardous by the Maine Department of Environmental Protection.

*Health care facility:* A privately operated establishment where maintenance and personal or nursing care are provided for persons who are unable to care for themselves.

*Home occupation:* A business, trade, occupation or profession conducted for gain and support, in the residential dwelling unit which is the residence \* of the owner/operator of the occupation, and which

1. Is carried on entirely within the residential dwelling unit or in an approved accessory structure located on the same property;
2. Is clearly secondary to the use of the dwelling for residential purposes and which does not change the character or appearance thereof;
3. Is clearly incidental to and compatible with the surrounding residential uses;

## APPENDIX C—LAND USE

App. A

4. Employs no more than two (2) persons other than family members residing in the dwelling unit; and
5. Has no exterior display or storage of goods or stock in trade other than products entirely produced within the residential dwelling unit. (By way of illustration and not of limitation, this shall include: foods such as breads, cookies or preserves; dressmaking; rugs; quilts; bird-houses; fishing flies and lures.)

The following uses are specifically prohibited as a "home occupation":

- (1) Automobile rentals, sales, repair or body repair;
- (2) Small engine repair;
- (3) Welding or other similar activities;
- (4) Any occupation which, after planning board deliberation, is deemed not to be in the best interests of the health or safety of the inhabitants of Dexter or the conservation and preservation of the healthful conditions of the water bodies and shoreland areas in Dexter.

For the purposes of the definition of a home occupation, a residence is defined as a dwelling unit occupied for more than seven (7) months annually.

*Hospital:* An institution providing, but not limited to, overnight health services, primarily for in-patients, and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central services facilities and staff offices.

*Hotel/motel:* A commercial building or group of buildings built to accommodate for a fee travelers and other transient guests who are staying for a limited duration with sleeping rooms without cooking facilities, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals served to its guests and other customers.



## App. A

## DEXTER CODE

*Kennel:* A commercial establishment in which more than four (4) dogs or four (4) cats are sold, housed, bred, boarded or trained for a fee.

*Licensed hospital:* A medical care facility licensed as a hospital by the State of Maine pursuant to 22 M.R.S.A. chapter 405, but not including sanatoria, convalescent homes, rest homes, nursing homes, ambulatory surgical facilities, or other medical care facilities subject to licensing under that statute.

*Licensed medical practice:* A public or private medical care provider, substance abuse treatment center, addiction center, etc. operated under the direct supervision of a physician licensed by the State of Maine pursuant to 32 M.R.S.A. chapter 48 as an affiliated practice of a licensed hospital, or in which all medical services to patients are provided directly by a physician licensed pursuant to 32 M.R.S.A. chapter 48. (The definition of physician for this purpose excludes osteopaths, who are licensed under 32 M.R.S.A. chapter 36. Also excluded are nonaffiliated medical practices in which patient care services are provided by nurse practitioners, physicians assistants, or others.)

*Lot:* An area of land in one (1) ownership, or one (1) leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the planning board and recorded in the county registry of deeds.

*Lot area:* The total horizontal area within the lot lines, minus land below the normal high-water line of a waterbody or upland edge of a wetland and areas beneath roads serving more than two (2) lots.

*Lot, minimum area:* The required lot area within a district for a single use.

*Lot, corner:* A lot with at least two (2) contiguous sides abutting upon a street or right-of-way.

*Lot, coverage:* The percentage of a lot covered by all buildings.

## APPENDIX C—LAND USE

App. A

*Lot, lines:* The lines bounding a lot as defined below:

a. *Front lot line:*

*Interior lots:* The line separating the lot from a street right-of-way.

*Corner lot or through lot:* The line separating the lot from either street right-of-way.

Where a right-of-way does not exist or cannot be determined the front lot line shall be the edge of the paved or graveled area of the road.

b. *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.

c. *Side lot line:* Any lot line other than the front lot line or rear lot 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.

*Lot, shorefront:* Any lot abutting a body of water that is regulated by the Shoreland Zoning Ordinance.

*Lot, through:* Any interior lot having frontages on two (2) more or less parallels streets or rights-of-way or between a street and a body of water, or a right-of-way and a body of water, or between two (2) bodies of water, as distinguished from a corner lot. All sides of through lots adjacent to streets, rights-of-way, and bodies of water shall be considered frontage, and front yards shall be provided as required.

*Lot width:* The distance between the side boundaries of the measured at the front setback line.

*Manufactured housing:*

- (a) A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported,

## App. A

## DEXTER CODE

by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two (2) types of manufactured housing are included. These two (2) types are:

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes", which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one (1) or more sections, which in the traveling mode are fourteen (14) body feet or more in width and are seven hundred fifty (750) or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning, or electrical systems contained in the unit:
  - (i) This term also includes any structure which meets all the requirements of this subprogram, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code; 42 M.R.S.A. § 5401, et seq; and
2. Those units commonly called "modular homes", which the manufacturer certifies are constructed in compliance with 10 M.R.S.A. ch. 957, and rules adopted under that chapter, meaning structures, transportable in one (1) or more sections, which are not constructed on a permanent chassis when connected

## APPENDIX C—LAND USE

App. A

to required utilities, including the plumbing, heating, air conditioning or electric systems contained in the unit.

- (b) This Ordinance is intended to prohibit the future installation and use of manufactured housing that is not qualified manufactured housing, including trailers, mobile homes or similar structures. The present use(s) of such not-qualified manufactured housing is expressly a "grandfathered" use under this Ordinance, and such use(s) are subject to the provisions for "nonconformance", under section 3 of the ordinance. This Ordinance shall, in the case of ambiguity, be interpreted by the permitting authority in a manner consistent with 30-A M.R.S.A. § 4358. This definition is applicable to section 2, Table of Land Uses, "Manufactured Housing".

*Manufacturing:* (Description and purpose): The manufacturing zones are intended to provide appropriately located areas for corporate and general office and limited commercial services, manufacturing enterprises, industrial establishments, and research developments that enhance the town's economic base and provide jobs for residents of the area, while at the same time ensuring a high quality of life free from excessive noise, odors, dust, smoke, heavy traffic congestion, and air and water pollution. In addition to this intent, each zone has its own specific and unique intent as follows:

*Manufacturing—Commercial zone:* Manufacturing in the commercial zone is intended for modern industrial, research, corporate/general office, and business park developments that meet high performance and development standards. The zone is intended to provide areas for light industrial and limited retail uses that are complementary and not detrimental to neighboring commercial and residential districts. Typical uses in this zone include warehousing and assembling and manufacturing of products from previously prepared materials.

*Manufacturing—Industrial zone:* Manufacturing in the industrial zone is intended to provide for light to heavy industry, which are not detrimental to neighboring commercial and residential districts.

## App. A

## DEXTER CODE

*Methadone:* Includes methadone, methadone hydrochloride, their salts, isomers, or of isomers, as listed or described in 17-A M.R.S.A. § 1102, Schedule W.

*Methadone clinic:* A program or facility operated for the purpose of providing treatment for persons with heroin or other opiate addictions, when the treatment provided includes administration or prescription of methadone or other opiate replacements for either detoxification or maintenance purposes. For purposes of this appendix, the term "methadone clinic" includes, but is not limited to, substance abuse treatment programs licensed by the State of Maine Department of Behavioral and Developmental Services Office of Substance Abuse to provide opioid supervised withdrawal and maintenance treatment services under 14-118 Code of Maine Regulations section 4.16.

*Mobile home park:* A plot of land laid out to accommodate at least two (2) mobile homes for commercial purposes.

*Motor vehicle:* A self-propelled wheeled vehicle that does not run on rails. For purposes of this Ordinance trailers of any type will be treated as motor vehicles.

*Motor vehicle repair facility:* Any premises of a person who purchases, acquires, or stores motor vehicles for the purpose of making repairs or restoring motor vehicles to make them serviceable.

*Neighborhood "convenience" stores:* A commercial structure of less than one thousand five hundred (1,500) square feet of floor space intended to service the convenience of a residential neighborhood primarily with the sale of merchandise, including such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items, but not to include "sit-down" dining or "eat-in" foods or take out windows.

*Nonconforming:* A building, structure, use of land, or portion thereof, legally existing at the effective date of adoption or amendment of this Ordinance which thereafter fails to conform to all applicable provisions of the ordinance.

*Parks and recreation:* Noncommercially operated recreation facilities open to the general public including, but not limited to,

## APPENDIX C—LAND USE

App. A

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, restrooms, bath houses, and the maintenance of such land and facilities. The term shall not include campgrounds or commercial recreation and amusement centers.

*Permitted use:* Uses which are listed as permitted uses in the various districts set forth in this Ordinance. The term shall not include prohibited uses.

*Planned unit development:* (See *Cluster development*.)

*Public and private schools:* Primary and secondary schools or parochial schools, which satisfy either of the following requirements; the school is not operated for a profit or as a gainful business; or the school teaches courses of study which are sufficient to qualify attendance in compliance with state compulsory education requirements.

*Public utility:* Any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

*Radio/television tower:* A structure erected for the commercial transmission and/or reception of radio, television or cellular telephone signals.

*Recreational vehicle:* A self-propelled or drawn vehicle or vehicular attachment designed for temporary sleeping or living quarters for one (1) or more persons, which is not a dwelling and which may include a pickup camper, travel trailer, tent trailer or motor home.

*Repairs:* Repairs will consist of, but not be limited to, mechanical work, glass replacement, replacement of body components, removing or repairing dents, sanding, grinding, cutting, welding, painting or repairs or installations of an electronic nature.

*Restaurant:* An establishment where meals are prepared and served to the public for consumption on the premises entirely within a completely enclosed building; and where no food or

## App. A

## DEXTER CODE

beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not permitted or encouraged by the design of the physical facilities, by advertising, or by the servicing or packaging procedures, to take out food or beverage for consumption outside the enclosed building.

*Retail business:* A commercial operation or activity engaged in the sale, rental, or lease of goods or services to the consumer for direct use or consumption and not for resale.

*Right-of-way:* All public or private roads and streets, state and federal highways, private ways, public easements, and public land reservations for the purpose of public access, including utility rights-of-way.

*Road:* An existing state, county or town way or a street accepted or dedicated for public use by the Town of Dexter or State of Maine. The term "road" shall not include those ways which have been discontinued or abandoned.

*Setback:* The minimum horizontal distance from a lot line to the nearest part of a building, including porches, steps and railings.

*Service business:* A commercial operation or activity engaged in the repair or maintenance of goods or items either on or off the property, where the items or goods are not visible to the general public, including small engine repair.

*Shopping center:* Any concentration of two (2) or more retail stores or service establishments under one (1) ownership or management containing fifteen thousand (15,000) square feet or more of gross floor space.

*Small engine repair:* Any operation or activity engaged in the repair or maintenance of small nonautomotive engines, including, but not limited to, all-terrain vehicles, chain saws, lawn and garden equipment, hedge clippers, snow blowers, snowmobiles or other similar equipment.

*Soil and water conservation practices:* Agricultural soil and water conservation practices include projects designed to control

## APPENDIX C—LAND USE

App. A

and prevent soil erosion and sediment damages; control pollution on farmland; impound, store and manage water for agricultural purposes; or improve management of land and soils to achieve maximum agricultural productivity. Such projects include, but are not limited to, erosion/sediment control and stormwater runoff management, and those practices, structures or systems that utilize the development and implementation of appropriate agricultural best management practices.

Examples of such projects include: Terrace systems; diversions; filter strips; buffer strips/areas; stream protection; water impoundment reservoirs; irrigation systems; sediment retention, erosion or water control systems; drainage systems; stone or grass waterways; animal waste control facilities; livestock heavy-use areas; agri-chemical handling facilities; and land shaping or grading.

*Structure:* Anything constructed or erected, the use of which requires a fixed location on or in the ground or an attachment to something having a fixed location on the ground, which occupies an area of one hundred (100) square feet or more, exclusive of cement pads used for soil and water conservation practices.

*Swimming pool:* An outdoor manmade receptacle or excavation designed to hold water to a depth of at least twenty-four (24) inches, primarily for swimming or bathing, whether in the ground or above the ground.

*Use:* The manner in which land or a structure is arranged, designed or intended or is occupied.

*Variance:* A relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the actions of the applicants, a literal enforcement of the ordinance would result in undue hardship.

*Wetland:* All freshwater wetlands as identified by the Maine Department of Inland Fisheries and Wildlife in accordance with 38 M.R.S.A. § 407A, or areas identified by the United States Environmental Protection Agency having jurisdiction under Section 404 of the Clean Water Act.



App. A

DEXTER CODE

*Wholesale business:* Any operation or activity, engaged in the sale of goods in large amounts to retailers or jobbers. (Ord. No. C2002-26, 10-10-02; Ord. No. C2005-18, 8-11-05; Ord. No. C2007-2, 4-12-07; Ord. No. C2008-10, 12-11-08; Ord. No. C2012-13, 8-9-12; Ord. No. C2014-8, 4-10-14; Ord. No. C2015-11, 6-11-15)

## APPENDIX C—LAND USE

App. B, § 86-02

**Appendix B. Outdoor Wood Boilers.**

*Statement of purpose.* The purposes of this appendix are to ensure that outdoor wood boilers are operated in a manner that limit particulate discharges, create no nuisance to neighbors, and protect members of the community from harmful levels of smoke and other emissions.

**Sec. 86-01. Legislative intent and findings.**

A. Outdoor wood boilers are alternative sources for heat and hot water production and when operated improperly create significant amounts of particulate and smoke discharges that threaten public health, welfare and safety.

B. Outdoor wood boilers are becoming more common, but government at the federal and state levels has not yet addressed their emissions issues, although the U.S. Environmental Protection Agency is currently considering regulations for outdoor wood boilers.

C. Significant emissions from outdoor wood boilers can have very negative effects or potential effects on the personal health and enjoyment of property of residents.

D. It is the intent of this chapter to serve the town's compelling interest to promote, protect, and improve the health, safety and welfare of the citizens of Dexter by regulating outdoor wood boilers within its borders.

E. Authority for this Ordinance is found in article 8, part 2, § 1 of the State of Maine Constitution, also known as the Home Rule provision, and the Dexter Town Charter.  
(Ord. No. C2007-2, 4-12-07)

**Sec. 86-02. Permit required.**

No person shall install, use or maintain an outdoor wood boiler within the Town of Dexter without first having obtained a permit from the code enforcement officer. Application for such permit shall be made to the code enforcement officer on forms provided. The permit fee shall be fifty dollars (\$50.00) and this fee may be adjusted by council order. Owners of outdoor wood

App. B, § 86-02

DEXTER CODE

boilers at the time [the ordinance from which this section derives] takes effect shall be exempt from the permit fee, but will still be required to submit a permit application.  
(Ord. No. C2007-2, 4-12-07)

**Sec. 86-03. Existing outdoor wood boilers.**

Any outdoor wood boiler in existence, installed and operating/operable on the effective date of [the ordinance from which this section derives] shall be allowed to remain provided that the owner applies for and receives a permit from the code enforcement officer within sixty (60) days of such effective date, provided, however, that upon the effective date of [the ordinance from which this section derives] all the provisions hereof, except for those found in section 86-04, subsection (B) below, shall immediately apply to existing outdoor wood boilers. If the owner of an outdoor wood boiler does not receive a permit within sixty (60) days of the effective date of [the ordinance from which this section derives], the owner shall immediately cease operations of the boiler until such time as the conditions for a permit are met. Existing or in existence means that the outdoor wood boiler is in place on-site.  
(Ord. No. C2007-2, 4-12-07)

**Sec. 86-04. Specific requirements.**

(A) *Permitted fuel.* Only seasoned firewood, fuel oil, kerosene, natural gas, pelletized fuel, corn or LP gas may be burned in an outdoor wood boiler if the boiler is designed and certified for that fuel. But if wood is burned, only firewood and untreated lumber is permitted to be used in an outdoor wood boiler. Burning of any and all other materials in an outdoor wood boiler is expressly prohibited.

(B) *Distance requirement.* No outdoor wood boiler shall be installed less than fifty (50) feet from a neighboring residence. On lots of three (3) or more acres, a property owner shall install a boiler no less than one hundred (100) feet from any lot line.

(C) *Certification.* Any outdoor wood boiler located in Dexter shall be certified to Standard 391 of Underwriters Laboratories (UL) or equivalent ANSI, CSA or NSF Standard. The outdoor

## APPENDIX C—LAND USE

App. B, § 86-05

boiler shall be required to display a listing plate on the unit that certifies that the unit is in compliance with the appropriate emissions standard, as determined by a qualified testing facility using appropriate and applicable Underwriter Laboratories (UL), ANSI, CSA or NSF Standard.

(D) *Stack height.* The stack height of an outdoor wood boiler will be at least twenty-four (24) inches above the roofline of the closest neighbor's residence abutting the property where the boiler is installed if the neighbor's residence is within three hundred (300) feet of the boiler installation site. On lots of three (3) or more acres, a property owner shall install a stack of no less than twelve (12) feet high.

(E) *Months of operation.* Outdoor wood boilers may be operated only between September 15 and May 15 of each year except on rural lots of three (3) acres or more. Between May 15 and September 15, outdoor furnaces not located on rural lots of three (3) acres or more may burn only propane, kerosene or oil if the system is designed and certified for it.

(F) *Replacements.* If an outdoor wood boiler is replaced or upgraded, a permit shall be required pursuant to section 86-04 above and shall comply with all sections of this Ordinance. (Ord. No. C2007-2, 4-12-07)

**Sec. 86-05. Suspension of permit.**

A permit issued pursuant to this Ordinance may be suspended, as the code enforcement officer deems necessary to protect the public health, safety and welfare of the residents of the Town of Dexter. Grounds for suspension of the permit shall include, but not be limited to, malodorous air contaminants caused by the burning of nonpermitted materials in the outdoor wood boiler. A suspended permit may be reinstated once the condition that caused the suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition, which has previously resulted in suspension of a permit, shall be considered a violation of this chapter and be subject to the penalties provided in section 86-07 below. (Ord. No. C2007-2, 4-12-07)

App. B, § 86-06

DEXTER CODE

**Sec. 86-06. Appeals and waivers.**

(A) *Appeals.* An outdoor wood boiler owner may appeal, in writing, the code enforcement officer's denial or suspension of a permit to the Dexter Board of Appeals. The board of appeals will consider such appeals in open session under its guidelines and bylaws. If the decision of the code enforcement officer is upheld, the suspension of the permit will continue until such time as the boiler is brought into compliance with this chapter or discontinued from use. During the appeal process, however, the outdoor wood boiler shall not be used in order to protect the health, safety and welfare of the neighborhood.

(B) *Waivers.* The Dexter Board of Appeals shall have the authority to grant waivers under this chapter due to extraordinary and undue hardship, upon written request of an affected property owner to the board of appeals. The board of appeals shall consider the waiver request in open session under the guidelines and bylaws of the board of appeals. Any waiver granted shall not have the effect of nullifying the intent and purposes of this chapter and the board of appeals may impose such conditions and requirements, as it deems reasonable and prudent. If the board of appeals denies the waiver request, the outdoor wood boiler in question must be brought into full compliance with this chapter or its use be discontinued immediately.

(Ord. No. C2007-2, 4-12-07)

**Sec. 86-07. Penalties.**

Violations of this chapter shall be deemed a civil infraction and violators may be summonsed by the code enforcement officer to Maine District Court or other court of competent jurisdiction. The owner of an offending outdoor wood boiler shall be assessed a penalty of one hundred dollars (\$100.00) and each day the violation continues may be considered as a separate offense. The maximum accumulated penalty for such offenses shall not exceed one thousand dollars (\$1,000.00). For a third or subsequent violation, the property owner's permit shall be revoked in addition to any monetary penalty. The owner shall not be eligible for another permit. Should the services of the

## APPENDIX C—LAND USE

App. B, § 86-09

town attorney be required, however, the town shall also be eligible to receive reasonable legal fees in addition to any penalties imposed under this section.  
(Ord. No. C2007-2, 4-12-07)

**Sec. 86-08. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them hereunder, except where the context clearly indicates a different meaning:

*Firewood* means trunks and branches of trees and bushes, but does not include leaves, needles or vines.

*Outdoor wood boiler* means any equipment, device or apparatus, or any part thereof, that is installed, affixed or situated outdoors for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any swimming pool, jacuzzi or interior space. Any boiler not physically located within the structure used as the primary residence is considered to be outdoor regardless of being enclosed in a shed, structure or covered by a canopy or any other shelter.

*Untreated lumber* means dry wood that has been milled and dried, but has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance. It may not contain nails, screws, or other similar attachments that, when burned, could create a threat to public health, safety or welfare.  
(Ord. No. C2007-2, 4-12-07)

**Sec. 86-09. Reserved.**

**Editor's note**—Ord. No. C2015-13, adopted July 9, 2015, deleted § 86-09, entitled Severability and derived from Ord. No. C2007-2, adopted Apr. 12, 2007. See section 6 of this Appendix C for similar provisions.  
(Ord. No. C2007-2, 4-12-07; Ord. No. C2015-13, 7-9-15)

## APPENDIX C—LAND USE

App. C, § 4

**Appendix C. Property Maintenance.****Section 1. Purpose/scope.**

The purpose of this Ordinance is to get a minimum standard for the maintenance of the premises surrounding said buildings, structures and vacant lots.  
(Ord. No. C2015-12, 7-9-15)

**Section 2. Maintenance standards/premises and yard areas.**

1. All premises and yard areas shall be maintained in a safe condition.

2. All yards or lots shall be kept free of accumulations of trash, garbage, refuse, junk, or other material which may cause a hazard to public health, sanitation, and safety or may act as a breeding place for vermin.  
(Ord. No. C2015-12, 7-9-15)

**Section 3. Enforcement.**

The Code Enforcement Officer of the Town of Dexter shall enforce the provisions of this Ordinance. In the event of a violation, the code enforcement officer shall notify the property owner by serving a written notice by certified mail or by hand delivery. Said notice shall explain the nature of the violation and allow no more than thirty (30) days from the date of the receipt of the notice to correct the violation. If the violation is not corrected within the required time allowed, the property owner shall be subject to penalties as set forth in section 4.  
(Ord. No. C2015-12, 7-9-15)

**Section 4. Penalties.**

Any person who violates any provision of this Ordinance after receiving notice of such violation shall be liable for civil penalty of a minimum of one hundred dollars (\$100.00) up to two thousand five hundred dollars (\$2,500.00) for each violation. Each day the violation continues shall constitute a separate

App. C, § 4

DEXTER CODE

violation as referenced in Maine State law. In addition, the town may pursue all remedies and reliefs available by law without limitations.

(Ord. No. C2015-12, 7-9-15)



## Chapter 7

**LICENSES, PERMITS AND BUSINESS REGULATIONS\*****Article I. In General**

- Sec. 7-1. License and permit applications.
- Sec. 7-2. Licenses and permits issued by town clerk; exceptions.
- Sec. 7-3. Town clerk; authority limitations.
- Sec. 7-4. Suspension or revocation.
- Sec. 7-5. Expiration.
- Sec. 7-6. Transferability.
- Secs. 7-7—7-25. Reserved.

**Article II. Licenses**

- Sec. 7-26. Auctioneers.
  
- Sec. 7-27. Bowling alleys, poolrooms, shooting galleries.
- Sec. 7-28. Reserved.
- Sec. 7-29. Junkyards and automobile graveyards.
- Sec. 7-30. Victualers.
- Sec. 7-31. Innkeepers, lodging houses, tavern keepers, privately-owned campgrounds.
- Sec. 7-32. Reserved.
- Sec. 7-33. Private sales, yard sales and flea markets.
- Sec. 7-34. Reserved.
- Sec. 7-35. Special permit for music, dancing, or entertainment in liquor establishments.
- Sec. 7-36. Carnivals, circuses, exhibitions.
- Sec. 7-37. Motion pictures, theaters.

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**\*Editor's note**—Ord. No. C2015-14, adopted Aug. 13, 2015, amended Ch. 7 in its entirety to read as herein set out. Former Ch. 7, §§ 7-1—7-62, pertained to similar subject matter, and derived from: Ord. of June 14, 1949; Ord. No. C84-2, §§ 101—106, 201—213, adopted May 3, 1984; Ord. No. C90-22, adopted Feb. 7, 1991; Ord. No. 090-24, adopted Jan. 3, 1991; Ord. No. C97-4, adopted Apr. 10, 1997; Ord. No. C97-7, adopted May 8, 1997; Ord. No. C97-10, adopted Aug. 14, 1997; Ord. No. C2002-18, adopted June 13, 2002; Ord. No. C2002-19, adopted June 13, 2002; and Ord. No. C2005-1, adopted Jan. 13, 2005.

**Cross references**—Administration, Ch. 2; animals, Ch. 3; development permit required in special flood hazard areas, § 4-41; motor vehicles and traffic, Ch. 9; hazardous waste restrictions and regulations, § 10-51 et seq.; streets, sidewalks and other public places, Ch. 11, exhibits, displays, etc., prohibited on public sidewalks of a commercial district, § 11-42, shoreland zoning, App. A; land use standards, App. A, § 11.

**State law reference**—Regulations, licenses and permits, 30-A M.R.S.A. § 3751 et seq.

DEXTER CODE

Sec. 7-38. Reserved.  
Sec. 7-39. Pawnbroker's license.  
Secs. 7-40—7-55. Reserved.  
Sec. 7-56 Taxicabs.  
Secs. 7-57—7-80. Reserved.

## LICENSES, PERMITS, BUSINESS REGULATIONS

§ 7-2

**ARTICLE I. IN GENERAL****Sec. 7-1. License and permit applications.**

Any person required by the provisions of this chapter to obtain a license from the town to engage in the operation, conduct, or carrying on of any trade, profession, business, or privilege, or a permit to commence, proceed, or continue to perform any act, shall make a written application to the town clerk upon forms provided by the town clerk and shall state facts as may be required. Applications shall be accompanied by the required fee, which will be returned if the license or permit is not issued.

(Ord. No. C2015-14, 8-13-15)

**Sec. 7-2. Licenses and permits issued by town clerk; exceptions.**

(a) As agent of the town council, the town clerk is authorized and directed to receive all applications required by this chapter unless otherwise specified. All applications for any license or permit shall be placed on the agenda for action by the town council unless otherwise specified. Initial applications for liquor licenses, bowling alley, poolroom, and shooting gallery licenses, victualer's licenses, innkeeper, lodging house, tavern keeper, and privately owned campground licenses, special amusement permits, carnival, circus, and exhibition licenses, motion picture and theater licenses, pawnbroker's licenses, and taxicab licenses require a public hearing. Renewals for such licenses shall be placed on the agenda for action by the town council. Initial and renewal applications for junkyards and automobile graveyards require a public hearing per Maine State law. All other permits and licenses may be issued by the town clerk subject to limitations on his/her authority. Applications requiring a public hearing shall be published in a newspaper of general, local circulation no less than seven (7) days prior to the date of the hearing on which the application is to be acted upon.

## § 7-2

## DEXTER CODE

(b) Licenses and permits shall not apply to events conducted by local governmental or school authorities, local nonprofit clubs or organizations, local fraternal organizations, or local religious organizations. No carnival or circus, however, shall be conducted without the approval of the town council.  
(Ord. No. C2015-14, 8-13-15)

**Sec. 7-3. Town clerk; authority limitations.**

The authority of the town clerk to issue licenses and permits is hereby limited as follows:

- (1) *Agent of council.* The town clerk acts as agent of the town council.
- (2) *Town council reservation.* In accordance with Maine State law, the town council, acting as the licensing authority of the town, authorizes and directs the town clerk as its agent to issue all licenses and permits, after public hearing where necessary. The applicant for such licenses or permits shall satisfy the town clerk that all of the requirements of the statutes or ordinances affecting such application and all recommendations required by such statutes and ordinances from the department heads or their agents are returned to the town clerk with a favorable recommendation for the issuance of such permits or licenses. Where the required recommendations are not favorable or where all of the requirements of the statutes or ordinances have not been met, the town clerk shall deny the application, which action may be appealed to the town council within thirty (30) days of the denial.
  - a. The town clerk shall, upon making a denial, immediately notify the town council of the denial.
  - b. The applicant may apply in writing to the town clerk for a hearing upon the denial as herein provided for. Upon receipt of such request, the town council shall set the matter for hearing before it at a date not more than thirty (30) days from the date of the receipt of the request for appeal.

## LICENSES, PERMITS, BUSINESS REGULATIONS

§ 7-3

- c. The applicant at the hearing provided for herein shall have the opportunity to be represented by counsel and present evidence in his behalf. The town clerk or any agent of the town shall have a like opportunity to present evidence in support of the town's position for denial.
  - d. The town council, acting as licensing authority, shall make its decision to deny the license or permit or to modify the same upon such terms and conditions as it deems just so long as such terms and conditions are within its authority as the licensing authority.
  - e. In making its determination, the licensing authority shall determine the following:
    - 1. The specific requirements of the license or permit under Maine State law and of the ordinances of the town;
    - 2. The facts with respect to the applicant meeting the requirements of the license or permit; and
    - 3. In matters in which the licensing authority has discretion, it shall make its requirements for the license or permit understandable to the applicant.
- (3) *Appeals.* Any licensee or permittee whose application has been denied by the town council, may, within thirty (30) days of the denial, appeal the decision to the board of appeals as defined by the town ordinance.
- (4) *Approval.* In all instances where the approval of any town official is required as a condition precedent to issuance of any license or permit, the town clerk shall notify promptly such officer or officers, and such license or permit shall not be issued until and unless all required approval is received, as evidenced by signatures on the application.
- (Ord. No. C2015-14, 8-13-15)

§ 7-4

DEXTER CODE

**Sec. 7-4. Suspension or revocation.**

Any license or permit issued under the licensing authority of the town may be suspended or revoked as follows:

- (1) The town manager, after receipt of a notice in writing from any department head or town employee charged with the issuing, supervising, monitoring, inspecting, or otherwise of any licensee that such licensee is in violation of any requirement of Maine State law or the town ordinances respecting such license shall, without hearing, suspend any licenses granted by the licensing authority as herein provided by issuing in writing a notice of suspension delivered to the licensee or its agent in hand by a constable of the town. Such notice shall inform the licensee of the appeal procedure of the suspension. The suspension shall become a permanent suspension unless the licensee makes his appeal to the licensing authority as hereinafter provided.
- (2) The town manager, upon such suspension, shall immediately notify the town council of the suspension.
- (3) The licensee or permittee may apply in writing to the town clerk for a hearing upon the suspension herein provided for. Upon receipt of such application for reinstatement, the town council shall set the matter for hearing before it at a date no more than thirty (30) days from the date of the receipt of the application for reinstatement.
- (4) The applicant, for reinstatement at the hearing herein provided, shall have the opportunity to be represented by counsel and present evidence in his behalf. The town manager or any agent of the town shall have a like opportunity to present evidence in support of the town's position for suspension or revocation.
- (5) The town council acting as the licensing authority will make its decision to continue the suspension or revocation or modify the same upon such terms and conditions as it deems just so long as such terms and conditions are within its authority as the licensing authority.

## LICENSES, PERMITS, BUSINESS REGULATIONS

§ 7-25

- (6) In making its determination, the town council shall determine the following:
- a. The specific requirements of the license or permit under Maine State law and of the ordinances of the town;
  - b. The facts with respect to the licensee or permittee meeting the requirements of the license or permit;
  - c. In matters in which the licensing authority has discretion, it shall make its requirement for reinstatement specific and understandable to the licensee or permittee.
- (7) Any licensee or permittee with a license or permit suspended or revoked by town council action, may, within thirty (30) days of suspension or revocation, appeal the decision to the board of appeals, as defined by the town ordinance.
- (Ord. No. C2015-14, 8-13-15)

**Sec. 7-5. Expiration.**

Except as otherwise provided by the chapter or by Maine State law, the term of all licenses shall be for a period of one (1) year, unless the license indicates a lesser period. Licenses shall expire on May 31 of each year unless sooner revoked.

(Ord. No. C2015-14, 8-13-15)

**Sec. 7-6. Transferability.**

No license or permit issued under this chapter shall be transferable. When a business or enterprise is transferred to a new owner, its license shall immediately terminate and, unless otherwise provided by Maine State law or ordinances of the town, the new owner shall be required to apply for a new license under the terms of this chapter.

(Ord. No. C2015-14, 8-13-15)

**Secs. 7-7—7-25. Reserved.**

§ 7-26

DEXTER CODE

**ARTICLE II. LICENSES****Sec. 7-26. Auctioneers.**

No person shall engage in the trade or business of auctioneer in the town unless such person has an auctioneer license as provided for by Maine State law.  
(Ord. No. C2015-14, 8-13-15)

**Sec. 7-27. Bowling alleys, poolrooms, shooting galleries.**

(a) *License.* No person shall conduct, maintain, or operate any place open to the public for bowling, or for playing pool or billiards, or for a shooting gallery without first obtaining a license. No such license shall be granted except upon the approval of the code enforcement officer and the fire chief. Licenses shall be granted in accordance with and subject to the requirements of Maine State law and the town ordinances.

(b) *Expiration; cost; advertising cost.* The fee for such license shall be twenty-five dollars (\$25.00) annually with licenses expiring on May 31 of each year unless sooner revoked. The costs for advertising for initial licenses shall be borne by the applicant for a fee of fifty dollars (\$50.00).  
(Ord. No. C2015-14, 8-13-15)

**State law reference**—Bowling, pool and shooting galleries, 8 M.R.S.A. § 1 et seq.

**Sec. 7-28. Reserved.****Sec. 7-29. Junkyards and automobile graveyards.**

(a) *License.* Junkyard and automobile graveyard permits shall be issued in accordance with and subject to the requirements of Maine State law and the town ordinances.

(b) *Expiration; cost; advertising cost.* The fee for such license shall be set according to Maine State law with licenses expiring according to Maine State law unless sooner revoked. The costs for advertising for initial licenses shall be borne by the applicant



## LICENSES, PERMITS, BUSINESS REGULATIONS

§ 7-31

for a fee of fifty dollars (\$50.00). The costs for advertising for renewal licenses shall be borne by the applicant for a fee of ten dollars (\$10.00).

(Ord. No. C2015-14, 8-13-15)

**State law reference**—Automobile junkyards, 30-A M.R.S.A. § 3751 et seq.

**Sec. 7-30. Victualers.**

(a) *Definition.* Any person engaging in the business of preparing and selling any food commonly consumed by persons either on the premises or off the premises shall be designated a common victualer for the purpose of this section and shall obtain a license. The term common victualer shall include persons engaged in the restaurant, bakery, sandwich, and delicatessen business. No initial license shall be granted except upon certification of the health officer, code enforcement officer, and fire chief.

(b) *License fee schedule.* In accordance with Maine State law and the town ordinances, the town shall charge for victualer's licenses according to the following schedule:

Lunch wagons .....	\$15.00
Lunch counters, diners, take-out sandwich businesses, etc. ....	\$20.00
Year-round restaurants with under 50 seating capacity .....	\$25.00
Year-round restaurants with over 50 seating capacity .....	\$35.00

(c) *Expiration; advertising costs.* All licenses are annual with licenses expiring on May 31 of each year unless sooner revoked. The costs of advertising for initial licenses shall be borne by the applicant for a fee of fifty dollars (\$50.00).

(Ord. No. C2015-14, 8-13-15)

**State law reference**—Innkeepers, victualers and lodging houses, 30-A M.R.S.A. § 3802 et seq; lunch wagons, 30-A M.R.S.A. § 3931.

**Sec. 7-31. Innkeepers, lodging houses, tavern keepers, privately-owned campgrounds.**

(a) *License.* No person shall operate any hotel, motel, inn, boardinghouse, tavern, lodging house, or privately owned campground without first obtaining a license from the town in

§ 7-31

DEXTER CODE

accordance with Maine State law and the town ordinances. No such license shall be granted except upon the approval of the code enforcement officer, the fire chief, and the health officer.

(b) *Expiration; cost; advertising cost.* The fee for such licenses shall be twenty-five dollars (\$25.00) annually with licenses expiring on May 31 of each year unless sooner revoked. A privately owned campground shall pay an additional fee of ten dollars (\$10.00) annually per camp site. The costs of advertising for initial licenses shall be borne by the applicant for a fee of fifty dollars (\$50.00).

(Ord. No. C2015-14, 8-13-15)

**Sec. 7-32. Reserved.**

**Sec. 7-33. Private sales, yard sales and flea markets.**

(a) *Permits.* It shall be unlawful for any person or group to conduct a yard sale or flea market as defined in the town without having first obtained a permit from the town clerk.

(1) *Definitions.*

- a. *Yard sales* shall mean and include all sales entitled garage sale, lawn sale, porch sale, attic sale, rummage sale, yard sale, or any similar casual sale of tangible personal property which is advertised by any means or is made evident by articles being set out in a yard, porch, or garage whereby the public at large can be made aware of such sales. All sales areas shall be kept neat and orderly.
- b. *Flea markets* shall be similar to yard sales, but shall have three (3) or more sponsors. Sponsor is defined as the individual(s) responsible for obtaining a permit from the town and ensuring compliance with the provisions of this section. Each sponsor must have at least one (1) table with materials for sale.

(b) *Fees.*

- (1) *Yard sale.* Permits shall be issued for a single sale. The duration of any one (1) sale shall be for no more than

## LICENSES, PERMITS, BUSINESS REGULATIONS

§ 7-33

three (3) consecutive days in any seven-day period and shall be limited to the hours between 8:00 a.m. and 7:00 p.m. No more than three (3) sales shall be held at the same location in any calendar year. Yard sale permits shall cost five dollars (\$5.00) per sale, fifteen dollars (\$15.00) per calendar year.

- (2) *Flea markets.* Permits shall be issued for a calendar month or for a calendar year. The duration of any one (1) sale shall be for no more than three (3) consecutive days in any seven-day period and shall be limited to the hours between 8:00 a.m. and 7:00 p.m. Flea market permits shall cost twenty-five dollars (\$25.00) per calendar month or two hundred dollars (\$200.00) per calendar year.

(c) *Exceptions.* Applications for private sales, yard sales, and flea markets shall not appear on the agenda for action by the town council.

(d) *Performance standards.* The following provisions establish the standards which must be attained while conducting sales under this section. Safety is of paramount importance and sponsors of these sales shall take all reasonable precautions to ensure that customers are not subject to undue hazards while visiting the site of the sale. These shall include, but not be limited to:

- (1) A sensible parking plan and traffic flow scheme;
- (2) Parking for flea markets shall be off the street and out of the traffic flow;
- (3) Tables shall be set out of the right-of-way (i.e., the edge of the gravel shoulder, or edge of the pavement);
- (4) Signs shall be posted identifying the dates, times, and locations of such sales (these signs shall be placed in highly visible locations along both sides of the nearest thoroughfare, facing oncoming traffic and shall be located not less than three hundred (300) feet from the sale location in rural areas outside the town proper, and not less than one hundred (100) feet from the location of those sales conducted in-town proper);

§ 7-33

DEXTER CODE

- (5) No person shall attach or otherwise affix any sign, advertisement, or notice on any utility power pole, traffic sign, fire hydrant, bridge, pavement, sidewalk, or on any building, property, or thing belonging to the town;
- (6) All signs shall be removed immediately upon completion of the sale;
- (7) All sale items shall be removed from sight after the completion of the sale.

(e) *Liability statement.* Neither the town nor its officers shall be held liable for granting a permit to anyone conducting such sale. Any damage which may arise from an accident or incident at the scene of a sale shall be the sole responsibility of the permit holder and/or its sponsors.

(f) *Fines.* Any person who in any manner violates the provisions of this section shall, on conviction, be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), with costs of prosecution for each offense. Each day of violation shall constitute a separate offense for purposes of prosecution of violations of this section.

(Ord. No. C2015-14, 8-13-15)

**State law reference**—Garage sales, 30-A M.R.S.A. § 3901.

**Sec. 7-34. Reserved.**

**Sec. 7-35. Special permit for music, dancing, or entertainment in liquor establishments.**

(a) *Purpose.* The purpose of this section is to control the issuance of special permits for music, dancing or entertainment in facilities licensed by the State of Maine to sell liquor as required by Maine State law and the town ordinances.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them below, except where the context clearly indicates a different meaning:

- (1) *Entertainment* means any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional

## LICENSES, PERMITS, BUSINESS REGULATIONS

§ 7-35

entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

- (2) *Licensee* means the holder of a license issued under the alcoholic beverages Statutes of the State of Maine, or any person, individual, partnership, firm, association, corporation or other legal entity, or any agent, or employee of any such licensee.
- (3) *Tumultuous conduct* means conduct of such nature and magnitude as to require or to cause the involvement of other law enforcement authorities.
- (4) *Unnecessary noise* means noise of such a level and duration that it is both clearly audible outside the premises for which a permit has been issued and sufficiently irritating to disturb the residents in the neighborhood where the establishment is located.

(c) *Permit.*

- (1) No licensee for the sale of liquor to be consumed on a licensed premises shall permit, on a licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee has first obtained from the town in which the licensed premises are situated a special amusement permit signed by at least a majority of the town council members.
- (2) No permit shall be issued for anything, or act, or premises, if the premises and building to be used for the purposes do not fully comply with all ordinances, articles, bylaws, or rules and regulations of the town.
- (3) The town council shall grant a permit unless it finds that issuance of the permit would be detrimental to the public health, safety, or welfare, or would violate Maine State law or municipal ordinances, or rules and regulations, articles, or bylaws.

(d) *Expiration.* A permit shall be valid only for the license year of the applicant's existing liquor license.

§ 7-35

DEXTER CODE

(e) *Inspections.* No such permit shall be granted except upon certification of the health officer, code enforcement officer and fire chief.

(f) *Cost; advertising cost.* The fee for a special amusement permit shall be twenty-five dollars (\$25.00). The costs for advertising for initial permits shall be borne by the applicant for a fee of fifty dollars (\$50.00).

(g) *Standards.* The town council hereby adopts the following standards for the issuance of a special amusement permit and for the suspension or revocation of such permits. These standards shall determine whether the issuance of a permit or continued activity under an already existing permit would be detrimental to the public health, safety, or welfare, or would violate municipal ordinances, or rules and regulations, articles or bylaws. These standards shall constitute the standards governing issuance, revocation and suspension of permits.

- (1) *Hours of operation.* The permitted activities under a special amusement permit shall cease no later than 1:00 a.m. It shall be deemed detrimental to the public safety or welfare for entertainment of the type requiring a special amusement permit to occur between the hours of 1:00 a.m. and 7:00 a.m. New Year's Eve hours shall be extended to 2:00 a.m.
- (2) The facilities on a premises receiving a permit under the terms of this section shall be adequate to assure the safety of all patrons of that establishment and shall comply with all Maine State laws and town ordinances regarding such an establishment.
- (3) Operation of an establishment by a licensee for a permit hereunder shall in no event result in a line or crowd outside the entrance of the establishment containing more than five (5) patrons or prospective patrons of the establishment.

(h) *Incidents of tumultuous conduct; noise complaints.*

- (1) Incidents of tumultuous conduct shall be grounds for the suspension or revocation of a permit following notice and hearing, and subject to the procedures of this chapter.

## LICENSES, PERMITS, BUSINESS REGULATIONS

§ 7-35

The licensee of the permit hereunder shall not permit tumultuous conduct in his establishment at any time. Incidents or occurrences of tumultuous conduct as defined herein twice in one (1) week or three (3) times in one (1) month shall be considered prima facie evidence that tumultuous conduct has occurred which shall be grounds for suspension of the permit following notice and hearing as prescribed herein.

- (2) An instance of tumultuous conduct involving more than five (5) people shall constitute riotous conduct. One (1) such incidence of riotous conduct shall constitute grounds for suspension of the permit following notice and hearing and shall be prima facie evidence of a condition detrimental to the public health, safety or welfare of the community.
- (3) Unnecessary noise as defined herein constitutes a detriment to the public health, safety or welfare. More than three (3) complaints of unnecessary noise shall cause the town council to consider revocation or suspension of the permit following notice and hearing to interested parties as prescribed herein.

- (i) *Noise measurement and levels.*

- (1) Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency or volume.
- (2) The maximum permissible sound pressure level of any continuous, regular, frequent, intermittent or periodic source of sound produced by any activity regulated by this chapter shall not exceed the following sound pressure level limits during the time period indicated:

*Sound pressure level limits:*

7:00 a.m. to 9:00 p.m.: 60 db(a)

9:00 p.m. to 7:00 a.m.: 50 db(a)

- (3) Sound pressure levels shall be measured at fifty (50) feet from the exterior wall nearest to the sound source.

§ 7-35

## DEXTER CODE

Sound pressure levels shall be measured using the sound level meter orientation specified by the manufacturer.

- (4) Noise shall be measured with a sound level meter meeting the standards of the American National Standards Institute (ANSI) for either Type 1 or Type 2 meters, and according to standard sound level measurement standards.

(j) *Enforcement.* Subsection (i) is enforceable by law enforcement officers or by the code enforcement officer, who may measure noise levels and make any such reports as may be required. Violation of the provisions of subsection (i) shall result in the following:

*First offense:* Written warning.

*Second offense:* Two hundred fifty dollar (\$250.00) fine.

*Third offense:* Five hundred dollar (\$500.00) fine and a hearing before the town council to consider the revocation of the special amusement and live entertainment license.

(k) *Admission charge.* A licensed hotel, class A restaurant, class A tavern, or restaurant malt liquor licensee who has been issued a special amusement permit may charge admission in designated areas approved by the special amusement permit.

(l) *Penalty.* Whoever violates any provision of this section, excluding the provisions set out in subsection (i), shall be punished by a fine of not more than fifty dollars (\$50.00) for the first offense and up to one hundred dollars (\$100.00) for each subsequent offense, to be recovered, on complaint, to the use of the town.

(Ord. No. C2015-14, 8-13-15)

**Sec. 7-36. Carnivals, circuses, exhibitions.**

(a) *License.* No person shall conduct or operate any exhibition, performance, or show at which an admission fee is charged without first obtaining a license. No such license shall be granted except upon certification of the police chief, the fire chief, the code enforcement officer, and the health officer. Either



## LICENSES, PERMITS, BUSINESS REGULATIONS

§ 7-39

the fire chief or the police chief, or both, may condition their certificate of approval upon the presence of one (1) or more members of their respective departments or some person or persons satisfactory to and under the direction of the fire chief or police chief.

(b) *Cost; advertising cost.* A deposit sufficient to pay for additional police or fire protection required for such events will be left with the town office in advance of the event. The fee for such licenses shall be twenty-five dollars (\$25.00) per event. The costs of advertising for licenses shall be borne by the applicant for a fee of fifty dollars (\$50.00) per event.

(Ord. No. C2015-14, 8-13-15)

**State law reference**—Public exhibitions, 8 M.R.S.A. § 501 et seq.

**Sec. 7-37. Motion pictures, theaters.**

(a) *License.* No person shall operate an indoor or outdoor theater, with live, filmed, electrical, or electronic presentations, without first obtaining a license. No such license shall be granted except on certification of the code enforcement officer and the fire chief.

(b) *Expiration; cost; advertising cost.* The fee for such licenses shall be twenty-five dollars (\$25.00) annually with licenses expiring on May 31 unless sooner revoked. The costs for advertising for initial licenses shall be borne by the applicant for a fee of fifty dollars (\$50.00).

(Ord. No. C2015-14, 8-13-15)

**Sec. 7-38. Reserved.****Sec. 7-39. Pawnbroker's license.**

(a) *License.* The town may grant licenses to persons to conduct pawn transactions for one (1) year unless sooner revoked for violation of law.

(b) *Expiration; cost; advertising cost.* The fee for such licenses shall be twenty-five dollars (\$25.00) annually with licenses expiring on May 31 of each year unless sooner revoked. The cost for advertising for initial licenses shall be borne by the applicant for a fee of fifty dollars (\$50.00).

§ 7-39

DEXTER CODE

(c) *Penalty.* Whoever carries on such business without a license shall be punished in accordance with Maine State law. (Ord. No. C2015-14, 8-13-15)

**Secs. 7-40—7-55. Reserved.**

**Sec. 7-56 Taxicabs.**

(a) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Taxicab* means a motor vehicle used for the conveyance of passengers for hire, without fixed terminal or routes, the destination and route of which are under the control of the passenger or passengers being carried and the fares for which are at rates per mile or wait-time or both.
- (2) *Taxi meter* means a mechanical instrument or device by which the fare for hire of the taxicab is mechanically computed and calculated and on which such fare is plainly visible.

(b) *License; exceptions.* It shall be unlawful for any person to operate or cause to be operated in the town any taxicab without having first obtained a license. It shall not be deemed to be the operation of a taxicab or the causing of a taxicab to be operated within the meaning of this article if a person licensed to operate a taxicab in any city or town which grants the same rights as are granted herein to taxicabs licensed in the town shall, upon delivery in Dexter of a bona fide passenger from the place where the taxicab is licensed, take a passenger or passengers from the point of delivery in Dexter to the place where the taxicab is licensed without parking and or cruising in Dexter to obtain the passenger or passengers.

(c) *Determination of need.* The town council shall determine the need for and to issue licenses to operate taxicabs in the town.

(d) *Establishment of taxicab stands.*

- (1) The town council shall establish taxicab stands on such public streets and in such places and in such number as

## LICENSES, PERMITS, BUSINESS REGULATIONS

§ 7-80

it shall determine to be of the greatest benefit and convenience to the public. Such stands shall be designated by appropriate signs and means erected by and at the expense of the taxicab owners subject to the approval of the traffic board, acting in its capacity as a licensing board.

- (2) It shall be unlawful for the operator of any vehicle other than a taxicab to stand or park in an officially designated taxicab stand, except that the operator of any passenger vehicle may temporarily stop in such stand for the purpose of and while engaged in the loading or unloading of passengers.

(e) *Vehicle safety requirements.* The licensing board of the town shall require all taxicabs licensed under this article to meet and maintain such requirements for the safety and protection of the public and passengers as are required by the State of Maine inspection laws pertaining to motor vehicles.

(f) *Expiration; cost; advertising cost.* The fee for such licenses shall be twenty-five dollars (\$25.00) annually for each taxicab operated by the same person or owner with licenses expiring on May 31 of each year unless sooner revoked. The costs for advertising for initial licenses shall be borne by the applicant for a fee of fifty dollars (\$50.00).  
(Ord. No. C2015-14, 8-13-15)

**Secs. 7-57—7-80. Reserved.**

## APPENDIX A

### SHORELAND ZONING\*

#### **Section 1. Purposes.**

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; 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 accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing; to protect freshwater 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 inland waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.  
(Ord. No. C2009-1, 3-12-09)

#### **Section 2. Authority.**

This Ordinance has been prepared in accordance with the provisions of 38 M.R.S.A. §§ 435—449.  
(Ord. No. C2009-1, 3-12-09)

#### **Section 3. Applicability.**

This Ordinance applies to all land areas within three hundred fifty (350) feet, horizontal distance, of the normal high-water

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**\*Editor's note**—Ord. No. C2009-1, §§ 1—17, adopted March 12, 2009, amended App. A to read as herein set out in §§ 1—17. Prior to inclusion of said ordinance, App. A, §§ 1—17 pertained to similar subject matter and derived from an ordinance adopted June 3, 1976; Ord. No. C-88-1, adopted June 2, 1988; Ord. No. C91-16, §§ 1—17, adopted Nov. 7, 1991; Ord. No. C94-2, adopted May 12, 1994; Ord. No. C95-5, adopted June 8, 1995; Ord. No. C96-17, adopted Dec. 12, 1996; Ord. No. C99-4, adopted May 13, 1999; Ord. No. C2002-17, adopted June 13, 2002; Ord. No. C2003-6, adopted Feb. 13, 2003; and Ord. No. C2003-10, adopted Mar. 13, 2003.

**Cross references**—Domestic animals (livestock) within the shoreland protection zone, § 3-43; flood prevention and protection, Ch. 4; flood hazard reduction standards, § 4-106 et seq.; housing, Ch. 6; Ch. 7; motor vehicles and traffic, Ch. 9; solid waste, Ch. 10; municipal landfill, § 10-26 et seq.; hazardous waste restrictions and regulations, § 10-51 et seq.

## § 3

## DEXTER CODE

line of Big Lake Wassookeag; within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of Little Lake Wassookeag; and within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river, or, within two-hundred-fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland designated moderate to high value by maps dated August 2008, Department of Inland Fisheries and Wildlife; and within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream as defined in section 17 of this Ordinance and Gould and Kaeton Pond or upland edge of a freshwater wetland depicted on the official shoreland zoning map. This Ordinance also applies to any structure built on, over or abutting a dock, wharf, or pier, or other structure extending or located below the normal high-water line of a waterbody or within a wetland.  
(Ord. No. C2009-1, 3-12-09; Ord. No. C2015-16, 9-8-15)

**Section 4. Effective date and repeal of formerly adopted ordinance.**

A. This Ordinance, which was adopted by the municipal legislative body on March 12, 2009, and whose effective date is April 12, 2009, shall not be effective unless approved by the commissioner of the Department of Environmental Protection. A certified copy of the ordinance, attested and signed by the municipal clerk, shall be forwarded to the commissioner for approval. If the commissioner fails to act on this Ordinance within forty-five (45) days of his/her receipt of the ordinance, it shall be automatically approved. Upon approval of this Ordinance, the shoreland zoning ordinance previously adopted on November 7, 1991, is hereby repealed.

Any application for a permit submitted to the municipality within the forty-five-day period shall be governed by the terms of this Ordinance if the ordinance is approved by the commissioner.

B. *Repeal of municipal timber harvesting regulation.* The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. § 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards

## APPENDIX A—SHORELAND ZONING

§ 6

in the shoreland zone. On the date established under 38 M.R.S.A § 438-A(5), the following provisions of this Ordinance are repealed:

- Section 14. Table of Land Uses, column 3 (forest management activities except for timber harvesting) and column 4 (timber harvesting);
- Section 15(O) in its entirety; and
- Section 17. Definitions, the definitions of "forest management activities" and "residual basal area".

NOTE: The statutory date established under 38 M.R.S.A. § 438-A(5) is the effective date of state-wide timber harvesting standards. That date is "the first day of January of the 2<sup>nd</sup> year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the commissioner of conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992—2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards". 38 M.R.S.A. § 438-A(5) further provides that "the commissioner of conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards".  
(Ord. No. C2009-1, 3-12-09)

**Section 5. Availability.**

A certified copy of this Ordinance shall be filed with the municipal clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.  
(Ord. No. C2009-1, 3-12-09)

**Section 6. Severability.**

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.  
(Ord. No. C2009-1, 3-12-09)

**Section 7. Conflicts with other ordinances.**

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

(Ord. No. C2009-1, 3-12-09)

**Section 8. Amendments.**

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the municipal clerk, shall be submitted to the commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the commissioner. If the commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five-day period shall be governed by the terms of the amendment, if such amendment is approved by the board.

(Ord. No. C2009-1, 3-12-09)

**Section 9. Districts and zoning map.**

A. *Official shoreland zoning map.* The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the official shoreland zoning map(s) which is (are) made a part of this Ordinance:

1. Resource protection;
2. Limited residential;
3. Limited commercial;
4. General development;
5. Stream protection.

B. *Scale of map.* The official shoreland zoning map shall be drawn at a scale of not less than: One (1) inch = two thousand (2,000) feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

NOTE: Because of map scale or other reason, a municipality may have a series of maps depicting its shoreland zone.

## APPENDIX A—SHORELAND ZONING

§ 12

C. *Certification of official shoreland zoning map.* The official shoreland zoning map shall be certified by the attested signature of the municipal office. In the event the municipality does not have a municipal office, the municipal clerk shall be the custodian of the map.

D. *Changes to the official shoreland zoning map.* If amendments, in accordance with section 8, are made in the district boundaries or other matter portrayed on the official shoreland zoning map, such changes shall be made on the official shoreland zoning map within thirty (30) days after the amendment has been approved by the commissioner of the Department of Environmental Protection.  
(Ord. No. C2009-1, 3-12-09)

**Section 10. Interpretation of district boundaries.**

Unless otherwise set forth on the official shoreland zoning map, district boundary lines are property lines, the centerlines of streets, roads, and rights-of-way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the board of appeals shall be the final authority as to location.  
(Ord. No. C2009-1, 3-12-09)

**Section 11. Land use requirements.**

Except as hereinafter specified, no building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.  
(Ord. No. C2009-1, 3-12-09)

**Section 12. Nonconformance.**

A. *Purpose.* It is the intent of this Ordinance to promote land use conformities, except that nonconforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the



## § 12

## DEXTER CODE

requirements set forth in section 12. Except as otherwise provided in this Ordinance, a nonconforming condition shall not be permitted to become more nonconforming.

*B. General.*

1. *Transfer of ownership.* Nonconforming structures, lots, and uses may be transferred, and the new owner may continue the nonconforming use or continue to use the nonconforming 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 nonconforming uses and structures including repairs or renovations that do not involve expansion of the nonconforming use or structure, and such other changes in a nonconforming use or structure as federal, state, or local building and safety codes may require.

NOTE: See section 17 for the definitions of nonconforming structures, nonconforming uses and nonconforming lots.

*C. Nonconforming structures.*

1. *Expansions.* All new structures must meet the shoreline setback requirements contained in subsection 15.B. A nonconforming 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 nonconformity of the structure and is in accordance with the subsections of subsection 12.C.1.
  - a. Expansion of an accessory structure that is located closer to the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the waterbody, tributary stream, or wetland setback requirement.
  - b. Expansion of any portion of a structure within twenty-five (25) feet of the normal high-water line

## APPENDIX A—SHORELAND ZONING

§ 12

of a waterbody, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the waterbody, tributary stream, or wetland setback requirement.

- c. Notwithstanding subsection 12.C.1.b., if a nonconforming principal structure is entirely located less than twenty-five (25) feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable standards of this Ordinance are met and the expansion is not prohibited by subsection 12.C.1. above:
  - 1. The maximum total footprint of the principal structure may not be expanded to an area greater than eight hundred (800) square feet or thirty (30) per cent larger than the footprint that existed on January 1, 1989, whichever is greater.
  - 2. The maximum height of the principal structure may not be made greater than fifteen (15) feet or the height of the existing structure, whichever is greater.
- d. All other nonconforming principal and accessory structures that do not meet the waterbody, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met and the expansion is not prohibited by subsection 12.C.1. and subsections a, b, or c above:
  - 1. For structures located less than seventy-five (75) feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland, the maximum combined total footprint of all structures may not be expanded to an area greater than one thousand (1,000) square feet or thirty (30) per cent larger than the footprint that existed on January 1, 1989, whichever is greater.

## § 12

## DEXTER CODE

2. For structures located less than seventy-five (75) feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland, the maximum height of any structure may not be made greater than twenty (20) feet or the height of the existing structure, whichever is greater.
  3. For structures located less than one hundred (100) feet from the normal high-water line of a great pond or a river flowing to a great pond, the maximum combined total footprint of all structures may not be expanded to an area greater than one thousand five hundred (1,500) square feet or thirty (30) per cent larger than the footprint that existed on January 1, 1989, whichever is greater.
  4. For structures located less than one hundred (100) feet from the normal high-water line of a great pond or a river flowing to a great pond, the maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater.
  5. For structures located less than one hundred (100) feet from the normal high-water line of a great pond or a river flowing to a great pond, any portion of those structures located less than seventy-five (75) feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland must meet the footprint and height requirements of subsections 12.C.1.d.1. and 2.
- e. In addition to the limitations in subsection 12.C.1. and subsections a, b, and c above, structures that are nonconforming due to their location within the Resource Protection District and are located at less than two hundred fifty (250) feet from the normal high-water line of a waterbody or the upland edge

## APPENDIX A—SHORELAND ZONING

§ 12

of a wetland may be expanded or altered as follows, as long as other applicable standards of this Ordinance are met:

1. The maximum combined total footprint of all structures may not be expanded to an area greater than one thousand five hundred (1,500) square feet or thirty (30) per cent larger than the footprint that existed at the time the resource protection district was established on the lot, whichever is greater.
  2. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater.
  3. Any portion of the structures located less than one hundred (100) feet from the normal high-water line of a great pond or a river flowing to a great pond, must meet the footprint and height requirements of subsections 12.C.1.d.3. and 4.
  4. Any portion of the structures located less than seventy-five (75) feet from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland must meet the footprint and height requirements of subsections 12.C.1.d.1. and 2.
- (f) Any approved plan for expansion of a non-conforming structure under subsection 12.C.1. must be recorded by the applicant in the registry of deeds of the county in which the property is located within ninety (90) days of the approval. The recorded plan must include the existing and proposed footprint of structures on the property, the existing and proposed height of structures on the property, the shoreland zone boundary, and evidence of approval by the municipal permitting authority.
2. *Foundations.* Whenever a new, expanded, or replacement foundation is constructed under a nonconforming

structure, the structure and new foundation must be placed such that the shoreline 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 subsection 12.C.3. below.

3. *Relocation.* A nonconforming 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, 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 said rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the planning board 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 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 (1) native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted, no one (1) species of tree shall make up more than fifty (50) per cent of

## APPENDIX A—SHORELAND ZONING

§ 12

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 groundcover, 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 groundcover was disturbed, damaged or removed must be re-established within the setback area. The vegetation and/or groundcover must consist of similar native vegetation and/or groundcover 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 nonconforming structure which is located less than the required setback from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland and which is removed, damaged, or destroyed regardless of cause, by any per cent 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 waterbody, tributary stream, or wetland setback requirement to the greatest practical extent as determined by the planning board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity. 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 subsection 12.C.1. above, as determined by the nonconforming floor area and volume of the reconstructed or replaced structure at its new location.

If the total amount of floor area and volume 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 subsection 12.C.3. above.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent, the planning board shall consider, in addition to the criteria in subsection 12.C.3. above, the physical condition and type of foundation present, if any.

5. *Change of use of a nonconforming structure.* The use of a nonconforming structure may not be changed to another use unless the planning board after receiving a written application determines that the new use will have no greater adverse impact on the waterbody, tributary stream, or wetland, or on the subject or adjacent properties and 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 and safety, erosion, and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing, and other functionally water-dependent uses.

D. *Nonconforming uses.*

1. *Expansions.* Expansions of nonconforming uses are prohibited, except that nonconforming 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 subsection 12.C.3.a. above.

## APPENDIX A—SHORELAND ZONING

§ 12

2. *Resumption of commercial use.* A lot in the limited commercial shoreland zone or the general development district may be reestablished with application, review, and approval by the CEO. Conditions may be required based on findings in subsection 16.D. and a public hearing may be held in the consideration of this application. If a commercial use is established or reestablished on a lot served by public sewer and water, any pre-existing residential use will not be considered a limiting factor.
  3. *Resumption of other uses in other districts.* A lot, building, or structure in or on which a nonconforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a nonconforming use except that the planning board may, for good cause shown by the applicant, grant up to a one-year extension to that time period.
  4. *In all districts.* This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five-year period.
  5. *Change of use.* An existing nonconforming use may be changed to another nonconforming 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 subsection 12.C.5. above.
- E. *Nonconforming lots.*
1. *Nonconforming lots.* A nonconforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met.



Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the board of appeals.

2. *Contiguous built lots.* If two (2) or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, provided that the state minimum lot size law and State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two (2) or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

3. *Contiguous lot—Vacant or partially built.* If two (2) 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 (1) or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to two (2) or more contiguous lots, at least one (1) of which is nonconforming, owned by the same person or persons on November 7, 1991, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- a. Each lot contains at least one hundred (100) feet of shore frontage and at least twenty thousand (20,000) square feet of lot area; or

## APPENDIX A—SHORELAND ZONING

§ 13

- b. Any lots that do not meet the frontage and lot size requirements of subsection 12.E.3.a. are reconfigured or combined so that each new lot contains at least one hundred (100) feet of shore frontage and at least twenty thousand (20,000) square feet of lot area.

(Ord. No. C2009-1, 3-12-09; Ord. No. C2015-15, 8-25-15)

**Section 13. Establishment of districts.**

A. *Resource protection district.* The resource protection district includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the stream protection district, except that areas which are currently developed and areas which meet the criteria for the limited commercial, or general development districts need not be included within the resource protection district.

1. Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of designated freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated moderate or high value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a geographic information system (GIS) data layer maintained by either MDIF&W or the department as of August 1, 2008. For the purposes of this subsection wetlands associated with great ponds and rivers shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high-water. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.
2. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100-year

## § 13

## DEXTER CODE

floodplain as designated on the Federal Emergency Management Agency's (FEMA) flood insurance rate maps or flood hazard boundary maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

3. Areas of two (2) or more contiguous acres of sustained slopes of twenty (20) per cent or greater.
  - a. By petition to the planning board, and amendment to this ordinance, the resource protection district may apply to the shoreland zone of a property only in areas described by subsection 13.A.3. above; while elsewhere in the shoreland zone of the property, the district may be designated as otherwise provided by this ordinance. Such areas shall be described in this ordinance, below, with the date of amendment.

Map 8, Lot 16: The portion of the shoreland zone not described by subsection 13.A.3. shall be designated limited commercial district as of October 25, 2012.

4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a waterbody during normal spring high water.
5. Land areas along rivers subject to severe bank erosion, undercutting or river bed movement.

B. *Limited residential district.* The limited residential district includes those areas suitable for residential and recreational development. It includes areas other than those in the resource protection district, or stream protection district, and areas which are used less intensively than those in the limited commercial district, or the general development district. This also includes areas within three hundred fifty (350) feet, horizontal distance of the normal high-water line of Lake Wassookeag.

## APPENDIX A—SHORELAND ZONING

§ 13

C. *Limited commercial district.* The limited commercial district includes areas of mixed, light commercial and residential uses, exclusive of the stream protection district, which should not be developed as intensively as the general development district. This district includes areas of two (2) or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited. This also includes areas within three hundred fifty (350) feet horizontal distance of the normal high-water line of Lake Wassookeag.

D. *General development district.* The general development district includes the following types of areas:

1. Areas of two (2) or more contiguous acres devoted to commercial, industrial, or intensive recreational activities, or a mix of such activities including, but not limited to, the following:
  - a. Areas devoted to manufacturing, fabricating, or other industrial activities;
  - b. Areas devoted to wholesaling, warehousing, retail trade, and service activities, or other commercial activities; and
  - c. Areas devoted to intensive recreational development and activities, such as, but not limited to, amusement parks, race tracks, and fairgrounds.
2. Areas otherwise discernable as having patterns of intensive commercial, industrial, or recreational uses. Portions of the general development district may also include residential development. However, no area shall be designated as a general development district based solely on residential use. In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a general development district shall be based upon uses existing at the time of adoption of this Ordinance. There shall be no newly established general development districts or expansions in area of existing general development districts adjacent to great ponds classified GPA, and adjacent to rivers which flow to great ponds classified GPA.

E. *Stream protection district.* The stream protection district includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas, the shoreland zone, of the normal high-water line of a great pond, or river, or within, the shoreland zone, of the upland edge of a freshwater wetland, or so depicted on the Official Shoreland Zoning Map or within three hundred fifty (350) feet of the normal high-water line of Big Lake Wassookeag or within two hundred fifty (250) feet of the normal high-water line of Little Lake Wassookeag.

Where a stream and its associated shoreland area is located within two hundred fifty (250) feet, horizontal distance, of the above waterbodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that waterbody or wetland.

(Ord. No. C2009-1, 3-12-09; Ord. No. C2012-14, 8-9-12; Ord. No. C2015-16, 9-8-15)

#### **Section 14. Table of land uses.**

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in section 15. The district designation for a particular site shall be determined from the official shoreland zoning map.

##### **Key to Table 1:**

Yes - Allowed (No permit required but the use must comply with all applicable land use standards.)

No - Prohibited.

PB - Allowed with permit issued by the planning board.

CEO - Allowed with permit issued by the code enforcement officer.

LPI Allowed with permit issued by the local plumbing inspector.

##### **Abbreviations:**

RP - Resource protection.

LR - Limited residential.

## APPENDIX A—SHORELAND ZONING

§ 14

LC - Limited commercial.

GD - General development.

SP - Stream protection.

TABLE 1. LAND USES IN THE SHORELAND ZONE

<i>LAND USES</i>		<i>DISTRICT</i>				
		<i>SP</i>	<i>RP</i>	<i>LR</i>	<i>LC</i>	<i>GD</i>
1.	Nonintensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
2.	Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3.	Forest management activities except for timber harvesting	yes	yes	yes	yes	yes
4.	Timber harvesting	yes	CEO <sup>1</sup>	yes	yes	yes
5.	Clearing of vegetation for approved construction and other allowed uses	CEO	CEO <sup>1</sup>	yes	yes	yes
6.	Fire prevention activities	yes	yes	yes	yes	yes
7.	Wildlife management practices	yes	yes	yes	yes	yes
8.	Soil and water conservation practices	yes	yes	yes	yes	yes
9.	Mineral exploration	no	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>	yes <sup>2</sup>
10.	Mineral extraction including sand and gravel extraction	no	PB <sup>3</sup>	PB	PB	PB
11.	Surveying and resource analysis	yes	yes	yes	yes	yes
12.	Emergency operations	yes	yes	yes	yes	yes
13.	Agriculture	yes	PB	yes	PB	yes
14.	Aquaculture	PB	PB	PB	yes	yes
15.	Principal structures and uses					
A.	One- and two-family residential	PB	PB <sup>9</sup>	PB	PB	PB
B.	Multi-unit residential	no	no	PB	PB	PB
C.	Commercial	no	no	no	CEO	PB
D.	Industrial	no	no	no	no	PB
E.	Governmental and institutional	no	no	no	PB	PB
F.	Small nonresidential facilities for educational, scientific or nature interpretation purposes	PB <sup>4</sup>	PB	CEO	CEO	CEO
16.	Structures accessory to allowed uses	PB <sup>4</sup>	PB	CEO	CEO	yes
17.	Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland					
a.	Temporary	CEO	CEO	CEO	CEO	CEO
b.	Permanent	PB	PB	PB	PB	PB

## APPENDIX A—SHORELAND ZONING

§ 14

<i>LAND USES</i>		<i>DISTRICT</i>				
		<i>SP</i>	<i>RP</i>	<i>LR</i>	<i>LC</i>	<i>GD</i>
18.	Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
19.	Home occupations	PB	no	PB	CEO	yes
20.	Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
21.	Essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB
A.	Roadside distribution lines (34.5kV and lower)	CEO <sup>6</sup>	CEO <sup>6</sup>	yes <sup>10</sup>	yes <sup>10</sup>	yes <sup>10</sup>
B.	Nonroadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	CEO	CEO	CEO
C.	Nonroadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB
D.	Other essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB	PB	PB
22.	Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
23.	Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO
24.	Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25.	Campgrounds	no	no	PB	PB	PB
26.	Road and driveway construction	PB	no <sup>8</sup>	PB	PB	PB
27.	Parking facilities	no	no	PB	PB	PB
28.	Marinas	no	no	no	no	no
29.	Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes
30.	Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO
31.	Signs	yes	yes	yes	yes	yes
32.	Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
33.	Uses similar to uses requiring a permit	CEO	CEO	CEO	CEO	CEO
34.	Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB

## Notes for Table:

<sup>1</sup> In RP not permitted within 75 feet of the normal high-water line of great ponds, except to remove safety hazards.

<sup>2</sup> Requires permit from the code enforcement officer if more than 100 square feet of surface area, in total, is disturbed.

<sup>3</sup> In RP not permitted in areas so designated because of wildlife value.

<sup>4</sup> Provided that a variance from the setback requirement is obtained from the board of appeals.

## § 14

## DEXTER CODE

<sup>5</sup> Functionally water-dependent uses and uses accessory to such water dependent uses only.

<sup>6</sup> See further restrictions in subsection 15.L.2.

<sup>7</sup> Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

<sup>8</sup> Except to provide access to permitted uses within the district, or where no reasonable alternative route or location is available outside the RP area, in which case a permit is required from the PB.

<sup>9</sup> Single-family residential structures may be allowed by special exception only according to the provisions of subsection 16.E., Special Exceptions. Two-family residential structures are prohibited.

<sup>10</sup> Permit not required, but must file a written "notice of intent to construct" with CEO.

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

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

(Ord. No. C2009-1, 3-12-09)

**Section 15. Land use standards.**

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.



## APPENDIX A—SHORELAND ZONING

§ 15

*A. Minimum lot standards (Refer to Section 12.D to clarify pre-existing uses allowed).*

1. *Minimum lot standards with public sewer and water.*

	<i>Minimum Lot Area (sq. ft.)</i>	<i>Minimum Shore Frontage (ft.)</i>
Residential per dwelling unit	40,000	200
Governmental, institutional, commercial or industrial per principal structure	20,000	100
Public and private recreational facilities	40,000	200

- a. Land below the normal high-water line of a waterbody or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- b. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- c. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a waterbody or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- d. If more than one (1) residential dwelling unit or more than one (1) principal governmental, institutional, commercial structure, or use, or combination thereof, is constructed or established, on a single parcel, all dimensional requirements, including lot size and frontage, shall be met for each additional dwelling unit or principal structure or use.

§ 15

## DEXTER CODE

2. *Minimum lot standards with private sewer and water.*

	<i>Minimum Lot Area (sq. ft.)</i>	<i>Minimum Shore Frontage (ft.)</i>
Residential per dwelling unit	40,000	200
Governmental, institutional, commercial or industrial per principal structure	60,000	300
Public and private recreational facilities	40,000	200

B. *Principal and accessory structures.*

1. All new principal and accessory structures shall be set back at least one hundred (100) feet horizontal distance from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other waterbodies, tributary streams, or the upland edge of a wetland, except that in the general development district the setback from the normal high-water line shall be at least twenty-five (25) feet, horizontal distance.

In addition:

- a. The waterbody 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.
- b. On a nonconforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required waterbody, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80)

## APPENDIX A—SHORELAND ZONING

§ 15

square feet in area, nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

2. Principal or accessory structures and expansions of existing structures which are permitted in the resource protection, limited residential, limited commercial, and stream protection districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas and similar structures having no floor area.
3. The lowest floor elevation or openings of all buildings and structures including basement shall be elevated at least one (1) foot above the elevation of the 100-year flood, the

## APPENDIX A—SHORELAND ZONING

§ 15

flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the floodplain management ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

4. The total footprint area of all structures, parking lots and other nonvegetated surfaces, within the shoreland zone shall not exceed twenty (20) per cent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed.
5. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
  - (a) The site has been previously altered and an effective vegetated buffer does not exist;
  - (b) The wall(s) is(are) at least twenty-five (25) feet, horizontal distance, from the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland;
  - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  - (d) The total height of the wall(s), in the aggregate, are no more than twenty-four (24) inches;
  - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) flood insurance rate maps or flood hazard boundary maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.

## § 15

## DEXTER CODE

- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within twenty-five (25) feet, horizontal distance, of the normal high-water line of a waterbody, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
  - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural groundcover is lacking the area must be supplemented with leaf or bark mulch;
  - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
  - (iii) Only native species may be used to establish the buffer area;
  - (iv) A minimum buffer width of fifteen (15) feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
  - (v) A footpath not to exceed the standards in subsection 15.P.2.a., may traverse the buffer;
- 6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the code enforcement officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a waterbody or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act; 38 M.R.S.A. § 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

## APPENDIX A—SHORELAND ZONING

§ 15

*C. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line of a waterbody or within a wetland.*

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use and character of the area. A temporary pier, dock or wharf shall not be wider than six (6) feet for noncommercial uses.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a waterbody or within a wetland unless the structure requires direct access to the water as an operational necessity.
6. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a waterbody or within a wetland shall be converted to residential dwelling units in any district.
7. Except in the general development district, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a waterbody or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
8. Wood preservatives disapproved by the Environmental Protection Agency of the United States shall not be used in the construction of any piers, docks or any other structure coming into direct contact with lakes or streams zoned for stream protection.

NOTE: New permanent structures and expansions thereof, projecting into or over waterbodies shall require a permit

from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. § 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

D. *Campgrounds*. Campgrounds shall conform to the minimum requirements imposed under state licensing procedures and the following:

1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a waterbody shall not be included in calculating land area per site.
2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other waterbodies, tributary streams or the upland edge of a wetland.

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

1. One (1) campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other waterbodies, tributary streams, or the upland edge of a wetland.

## APPENDIX A—SHORELAND ZONING

§ 15

3. Only one (1) recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a resource protection district shall be limited to one thousand (1,000) square feet.
5. 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.
6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

*F. Commercial and industrial uses.*

1. No hazardous materials may be stored in the shoreland areas adjacent to great ponds, and rivers and streams which flow to great ponds, except in quantities suitable for residential uses.
2. The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:
  - a. Auto washing facilities;
  - b. Auto or other vehicle service and/or repair operations, including body shops;
  - c. Chemical and bacteriological laboratories;



## § 15

## DEXTER CODE

- d. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms;
  - e. Commercial painting, wood preserving and furniture stripping;
  - f. Dry cleaning establishments;
  - g. Electronic circuit assembly;
  - h. Laundromats, unless connected to a sanitary sewer;
  - i. Metal plating, finishing or polishing;
  - j. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas;
  - k. Photographic processing;
  - l. Printing;
  - m. Extractive activities;
  - n. Automobile graveyards/junkyards.
3. The use of herbicides and pesticides is prohibited from right-of-way clearing, specifically including highways, railroads, and public utility rights-of-way or easements.

*G. 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 district may be reduced to 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 than 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 waterbody, tributary stream or wetland and where feasible, to retain all runoff on-site.

## APPENDIX A—SHORELAND ZONING

§ 15

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.

H. *Roads and driveways.* The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features:

1. Roads and driveways shall be set back at least one hundred (100) feet, horizontal distance from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other waterbodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the planning board. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the waterbody, 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 waterbody, tributary stream or wetland.

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

This subsection shall neither apply to approaches to water crossings, nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity, tributary stream or wetland.

## § 15

## DEXTER CODE

2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a waterbody.
3. 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, or as approved by the planning board 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 waterbody, tributary stream or upland edge of a wetland.
4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection subsection 15.Q.
5. Road and driveway grades shall be no greater than ten (10) per cent except for short segments of less than two hundred (200) feet.
6. In order to prevent road and driveway surface drainage from directly entering waterbodies, 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 (2) times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a waterbody, 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.
7. 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 in the road or ditches gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
  - a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or

## APPENDIX A—SHORELAND ZONING

§ 15

driveway at intervals no greater than indicated in the following table:

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

- b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) per cent or less.
  - c. On road sections having slopes greater than ten (10) per cent, ditch relief culverts shall be placed across the road at approximately a thirty-degree angle downslope from a line perpendicular to the centerline of the road or driveway.
  - d. 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.
8. Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.
- I. *Signs.* The following provisions shall govern the use of signs in the resource protection, stream protection, limited residential and limited commercial districts:
1. Signs relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.
  2. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.

## § 15

## DEXTER CODE

3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
4. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
5. Signs relating to public safety shall be allowed without restriction.
6. No sign shall extend higher than twenty (20) feet above the ground.
7. Signs may be illuminated only by shielded, non-flashing lights.

*J. Stormwater runoff.*

1. All new construction and development shall be designed to minimize stormwater 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 stormwater.
2. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

*K. Septic waste disposal.*

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (rules): 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 waterbody 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.

NOTE: The rules, among other requirements, include:

- a. The minimum setback for new subsurface sewage disposal systems, shall be no less than one hundred

## APPENDIX A—SHORELAND ZONING

§ 15

(100) horizontal feet from the normal high-water line of a perennial waterbody. The minimum setback distances from waterbodies for new subsurface sewage disposal systems shall not be reduced by variance.

- b. Replacement systems shall meet the standards for replacement systems as contained in the rules.
2. All applications for expansions of existing structures within the shoreland zone shall require for approval proof that the existing or proposed septic is in conformance with current Maine State Plumbing Code and requirements. The planning board may require evidence of review and approval by the Dexter local plumbing inspector prior to the granting of approval to such an application.

L. *Essential services.*

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services, other than roadside distribution lines, is not allowed in a resource protection or stream protection district, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

M. *Mineral exploration and extraction.* Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the code enforcement officer shall be required for mineral exploration which exceeds

## § 15

## DEXTER CODE

the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the planning board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of subsection 15.M.4. below.
2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other waterbody, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance of any property line, without written permission of the owner of such adjacent property.
3. 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-month period, ground levels and grades shall be established in accordance with the following:
  - a. All debris, stumps and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
  - b. The final graded slope shall be two and one-half to one (2½:1) slope or flatter.
  - c. Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Addi-

## APPENDIX A—SHORELAND ZONING

§ 15

tional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

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

N. *Agriculture.*

1. All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. §§ 4201—4209).
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within seventy-five (75) feet horizontal distance of other waterbodies, tributary streams or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a soil and water conservation plan to be filed with the planning board. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
4. There shall be no new tilling of soil within one hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance from other waterbodies; nor within twenty-five (25) feet horizontal distance of tributary streams and wetlands. Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.



§ 15

## DEXTER CODE

5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other waterbodies, nor within twenty-five (25) feet horizontal distance of tributary streams and fresh-water 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.

O. *Timber harvesting.*

1. Within the strip of land extending one hundred (100) feet inland from the normal high-water line in a shoreland area zoned for resource protection abutting a great pond there shall be no timber harvesting, except to remove safety hazards.
2. Except in areas as described in subsection O.1. above, timber harvesting shall conform with the following provisions:
  - a. Selective cutting of no more than forty (40) per cent of the total volume of trees four (4) inches or more in diameter measured at four and one-half (4½) feet above ground level on any lot in any ten-year period is permitted. In addition:
    - i. Within one hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance of the normal high-water line of other waterbodies, tributary streams, or the upland edge of a wetland, there shall be no clear-cut openings and a well-distributed stand of trees and other vegetation, including existing groundcover, shall be maintained.
    - ii. At distances greater than one hundred (100) feet, horizontal distance, of a great pond clas-

## APPENDIX A—SHORELAND ZONING

§ 15

sified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet horizontal distance of the normal high-water line of other waterbodies or the upland edge of a wetland, harvesting operations shall not create single clear-cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.

- b. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a waterbody. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a waterbody shall be removed.
- c. Timber harvesting equipment shall not use stream channels as travel routes except when:
  - i. Surface waters are frozen; and
  - ii. The activity will not result in any ground disturbance.
- d. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- e. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the waterbody or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

## § 15

## DEXTER CODE

- f. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least one hundred (100) feet in width for slopes up to ten (10) per cent shall be retained between the exposed mineral soil and the normal high-water line of a waterbody or upland edge of a wetland. For each ten (10) per cent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this subsection apply only to a face sloping toward the waterbody or wetland; provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water line of a waterbody or upland edge of a wetland.

*P. Clearing or removal of vegetation for activities other than timber harvesting.*

1. In a resource protection district abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any resource protection district the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

2. Except in areas as described in subsection P.1., above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other waterbody, 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 two hundred fifty (250) square feet in the forest canopy

## APPENDIX A—SHORELAND ZONING

§ 15

(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 foot-path not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed 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 subsection 15.P.2.b., a "well-distributed stand of trees and other vegetation" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of twenty-four (24) or more in any twenty-five-foot by fifty-foot rectangular (one thousand two hundred fifty (1,250) square feet) area as determined by the following rating system:

<i>Diameter of Tree at 4<sup>1</sup>/<sub>2</sub> feet Above Ground Level (inches)</i>	<i>Points</i>
2—<4 in.	1
4—<8 in.	2
8—<12 in.	4
12 in. or greater	8

Adjacent to other waterbodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score, sixteen (16) per twenty-five-foot by fifty-foot rectangular area.

NOTE: As an example, adjacent to a great pond, if a twenty-five-foot by fifty-foot plot contains four (4) trees between two (2) and four (4) inches in diameter, two (2) trees between four (4) and eight (8) inches in diameter, three (3) trees between eight (8)

## § 15

## DEXTER CODE

and twelve (12) inches in diameter, and two (2) trees over twelve (12) inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the twenty-five-foot by fifty-foot plot contains trees worth thirty-six (36) points. Trees totaling twelve (12) points ( $36 - 24 = 12$ ) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

- (i) The twenty-five-foot by fifty-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 fifty (50) per cent of the points on any twenty-five-foot by fifty-foot rectangular area may consist of trees greater than twelve (12) inches in diameter.

For the purposes of subsection 15.P.2.b. "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other groundcover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one-half ( $4\frac{1}{2}$ ) feet above ground level for each twenty-five-foot by fifty-foot rectangle area. If five (5) saplings do not

## APPENDIX A—SHORELAND ZONING

§ 15

exist, no woody stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than forty (40) per cent of the total volume of trees four (4) inches or more in diameter, measured at four and one-half (4½) feet above ground level may be removed in any ten-year period.

- c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other groundcover 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 subsections 15.P.2. and 15.P.2.a., above.
- d. Pruning of tree branches, on the bottom one-third of the tree is allowed.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Subsection 15.P.2. does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as, cleared areas, are limited to the minimum area necessary.

- 3. At distances greater than one hundred (100) feet, horizontal distance from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of any other waterbody, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be allowed on any lot, in any ten-year period, selective cutting of not more than forty (40) per cent of the volume of trees four (4) inches or more in diameter, measured four and

## § 15

## DEXTER CODE

one-half (4½) feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) per cent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose including, but not limited to, principal and accessory structures, driveways, lawns, and sewage disposal areas, exceed in the aggregate, twenty-five (25) per cent of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the general development district.

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of subsection 15.P.

Q. *Erosion and sedimentation control.*

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. All activities involving earthmoving or disturbing of soils shall be limited to the period between May 15 and November 1.

## APPENDIX A—SHORELAND ZONING

§ 15

3. 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.
4. 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.
5. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of rip-rap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (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 one (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 siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
6. Natural and manmade drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a 25-year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.
7. When an excavation contractor will perform these activities, compliance with the following shall be required:
  - a. A person certified in erosion control practices by the Maine Department of Environmental Protec-



tion shall be responsible for management of erosion and sedimentation control practices at the site. This person shall be present at the site each day these activities occur for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until installation of erosion and sedimentation control measures that will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion.

- b. Include on the required plan or permit application, the name and certification number of the person who will oversee activities causing or resulting in soil disturbance.

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

S. *Water quality*. No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the waterbody tributary stream or wetland. The planning board

## APPENDIX A—SHORELAND ZONING

§ 16

shall require buffered areas as a condition of approval of applications for principal structures on otherwise conforming lots not substantially developed on the effective date of this Ordinance.

T. *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 twenty (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.

(Ord. No. C2009-1, 3-12-09; Ord. No. C2015-16, 9-8-15)

**Section 16. Administration.***A. 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. § 2691.
3. *Planning board.* A planning board shall be created in accordance with the provisions of state law.

B. *Permits required.* After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change or replace an existing use or structure; or renew a discontinued nonconforming use; or subdivide an existing lot. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on-site while the work authorized by the permit is performed.

- a. A permit is not required for the replacement of an existing road culvert as long as:
  1. The replacement culvert is not more than twenty-five (25) per cent longer than the culvert being replaced;

§ 16

## DEXTER CODE

2. The replacement culvert is not longer than seventy-five (75) feet; and
  3. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- b. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the state historic preservation officer's Level 1 or Level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
  - c. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

*C. Permit application.*

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in section 14.
2. All applications shall be accompanied by the appropriate fee, according to the following table:

Principal structures (home, camp, or mobile home placement) .....	\$75.00
Accessory structures (garages, sheds, etc.) .....	\$35.00
Additions to existing structures .....	\$35.00
Commercial activities .....	\$50.00
General remodeling .....	\$20.00
Commercial remodeling .....	\$50.00
Demolition .....	\$20.00
Occupancy permit without a building permit (by request) .....	\$50.00

Subsequent or after-the-fact application fees are doubled.

## APPENDIX A—SHORELAND ZONING

§ 16

3. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or, by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
4. All applications shall be dated, and the code enforcement officer or planning board, as appropriate, shall note upon each application the date and time of its receipt.
5. 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 would require the installation of a subsurface sewage disposal system.

D. *Procedure for administering permits.* Within thirty-five (35) days of the date of receiving a written application, the planning board or code enforcement officer, as indicated in section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The planning board or the code enforcement officer, as appropriate shall approve, approve with conditions, or deny all permit applications in writing within thirty-five (35) days of receiving a completed application. However, if the planning board has a waiting list of applications, a decision on the application shall occur within thirty-five (35) days after the first available date on the planning board's agenda following receipt of the

## APPENDIX A—SHORELAND ZONING

§ 16

completed application, or within thirty-five (35) days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the planning board, the board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will avoid problems associated with floodplain development and use; and
8. Is in conformance with the provisions of section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any state law which the municipality is responsible for enforcing.

E. *Expiration of permit.* Permits shall expire one (1) year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a

## § 16

## DEXTER CODE

substantial start is made within one (1) year of the issuance of the permit, the applicant shall have one (1) additional year to complete the project, at which time the permit shall expire.

F. *Special exceptions.* In addition to the criteria specified in subsection 16.D. above, excepting structure setback requirements, the planning board may approve a permit for a single-family residential structure in a resource protection district provided that the applicant demonstrates that all of the following conditions are met:

1. There is no location on the property, other than a location within the resource protection district, where the structure can be built.
2. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the resource protection district.
3. All proposed buildings, sewage disposal systems and other improvements are:
  - a. Located on natural ground slopes of less than twenty (20) per cent; and
  - b. Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's flood boundary and floodway maps and flood insurance rate maps; all buildings, including basements, are elevated at least one (1) foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency maps, it is deemed to be half the width of the 100-year floodplain.
4. The total ground floor area including cantilevered or similar overhanging extensions, of all principal and ac-

## APPENDIX A—SHORELAND ZONING

§ 16

cessory structures is limited to a maximum of one thousand five hundred (1,500) square feet. This limitation shall not be altered by variance.

5. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a waterbody, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than seventy-five (75) feet, horizontal distance. In determining the greatest practical extent, the planning board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate value and high value wetlands.

G. *Installation of public utility service.* No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous ordinance, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

#### H. *Appeals.*

1. *Powers and duties of the board of appeals.* The board of appeals shall have the following powers:
  - a. *Administrative appeals:* To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, planning board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the code enforcement officer in his or her review of and action on a permit application under this Ordinance. Any

order, requirement, decision or determination made, or failure to act, in the enforcement of this Ordinance is appealable to the board of appeals.

- b. *Variance appeals:* To authorize variances upon appeal, within the limitations set forth in this Ordinance.
2. *Variance appeals.* Variances may be granted only under the following conditions:
- a. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, per cent of lot coverage and setback requirements.
  - b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
  - c. The board shall not grant a variance unless it finds that:
    - (1) The proposed structure or use would meet the provisions of section 15 except for the specific provision which has created the nonconformity and from which relief is sought; and
    - (2) The strict application of the terms of this Ordinance would result in undue hardship.The term "undue hardship" shall mean:
    - (i) That the land in question cannot yield a reasonable return unless a variance is granted;
    - (ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
    - (iii) That the granting of a variance will not alter the essential character of the locality; and
    - (iv) That the hardship is not the result of action taken by the applicant or a prior owner.



## APPENDIX A—SHORELAND ZONING

§ 16

3. Notwithstanding subsection 16.H.2.c.(2) above, the board of appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
  4. The board of appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
  5. 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.
3. *Administrative appeals.* When the board of appeals reviews a decision of the code enforcement officer, the board

of appeals shall hold a "de novo" hearing. At this time the board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity, the board of appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the board of appeals hears a decision of the planning board, it shall hold an appellate hearing, and may reverse the decision of the planning board only upon finding that the decision was contrary to specific provisions of the ordinance or contrary to the facts presented to the planning board. The board of appeals may only review the record of the proceedings before the planning board. The board appeals shall not receive or consider any evidence which was not presented to the planning board, but the board of appeals may receive and consider written or oral arguments. If the board of appeals determines that the record of the planning board proceedings are inadequate, the board of appeals may remand the matter to the planning board for additional fact finding.

4. *Appeal procedure.*

a. *Making an appeal.*

- (1) An administrative or variance appeal may be taken to the board of appeals by an aggrieved party from any decision of the code enforcement officer or the planning board. Such an appeal shall be taken within thirty (30) days of the date of the official written decision appealed from, and not otherwise, except that the board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (2) Applications for appeals shall be made by filing with the board of appeals a written notice of appeal which includes:
  - (i) A concise written statement indicating what relief is requested and why the appeal or variance it should be granted.

## APPENDIX A—SHORELAND ZONING

§ 16

- (ii) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
  - (3) Upon receiving an application for an administrative appeal or a variance, 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.
  - (4) The board of appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete application, unless the time period is extended by the parties.
- b. *Decision by board of appeals.*
- (1) A majority of the full voting membership of the board shall constitute a quorum for the purpose of deciding an appeal.
  - (2) The person filing the appeal shall have the burden of proof.
  - (3) The board shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
  - (4) The board of appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the board. The board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the board's decision. Copies of written decisions of the board of appeals shall be given to the planning board, code enforcement officer, and the municipal officers.
  - (5) Appeal to superior court. Except as provided by 30-AM.R.S.A. § 2691(3)(F), 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 (45) days from the date of any decision of the board of appeals.

- (6) *Reconsideration.* In accordance with 30-A M.R.S.A. § 2691(3)(F), the board of appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to superior court must be made within fifteen (15) days after the decision on reconsideration.

I. *Enforcement.*

1. *Nuisances.* Any violation of this Ordinance shall be deemed to be a nuisance.
2. *Code enforcement officer.*
  - a. It shall be the duty of the code enforcement officer to enforce the provisions of this Ordinance. If the code enforcement officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and

## APPENDIX A—SHORELAND ZONING

§ 16

ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

- b. The code enforcement officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The code enforcement officer shall also investigate all complaints of alleged violations of this Ordinance.
  - c. The code enforcement officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the director of the bureau of land and water quality within the Department of Environmental Protection.
3. *Legal actions.* When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers, upon notice from the code enforcement officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized

municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. *Fines.* Any person, including, but not limited to, a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. § 4452.

NOTE: Current penalties include fines of not less than one hundred dollars (\$100.00), nor more than two thousand five hundred dollars (\$2,500.00) per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to five thousand dollars (\$5,000.00) (38 M.R.S.A. § 4452).

(Ord. No. C2009-1, 3-12-09; Ord. No. C2015-9, 6-11-15)

#### **Section 17. Definitions.**

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

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

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

## APPENDIX A—SHORELAND ZONING

§ 17

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

*Aquaculture:* The growing or propagation of harvestable freshwater, estuarine or marine plant or animal species.

*Automobile graveyard:* Automobile graveyard means a yard, field, or other outdoor area used to store three (3) or more unregistered or uninspected motor vehicles, as defined in 29-A M.R.S.A. § 101(42), or parts of the vehicles. Automobile graveyard includes an area used for automobile dismantling, salvage, and recycling operations.

*Basal area:* The area of cross-section of a tree stem at four and one-half (4½) feet above ground level and inclusive of bark.

*Basement:* Any portion of a structure with a floor-to-ceiling height of six (6) feet or more and having more than fifty (50) per cent of its volume below the existing ground level.

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

*Bureau:* State of Maine Department of Conservation's Bureau of Forestry.

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

*Canopy:* The more or less continuous cover formed by tree crowns in a wooded area.

*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.

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

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

*Driveway:* A vehicular access-way less than five hundred (500) feet in length serving two (2) single-family dwellings or one (1) two-family dwelling or less.

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

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

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



## APPENDIX A—SHORELAND ZONING

§ 17

*Expansion of use:* The addition of one (1) or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

*Extractive activities:* The excavation, processing, or storage of soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits, not including:

1. The excavation, processing or storage of material incidental to and at the site of approved construction of buildings, driveways or parking areas;
2. The excavation, processing or storage of material incidental to any at the site of construction or repair of streets; and
3. The excavation, processing or storage of less than ten (10) cubic yards of material on a lot within a one-year period.

*Family:* One (1) or more persons occupying a premises and living as a single housekeeping unit.

*Floodway:* The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one (1) foot in height.

*Floor area:* The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure, such as porches and decks.

*Footprint:* The entire area of ground covered by the structures on a premises, including 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, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

*Forested wetland:* A freshwater wetland dominated by woody vegetation that is six (6) meters tall or taller.

*Foundation:* The supporting substructure of a building or other structure excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

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

1. Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water-body, excluding any river, stream, or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and
2. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

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

APPENDIX A—SHORELAND ZONING

§ 17

*Great pond:* Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area

## APPENDIX A—SHORELAND ZONING

§ 17

in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

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

*Home occupation:* A business, trade, occupation or profession conducted for gain and support, in the residential dwelling unit which is the residence\* of the owner/operator of the occupation, and which:

1. Is carried on entirely within the residential dwelling unit or in an approved accessory structure located on the same property;
2. Is clearly secondary to the use of the dwelling for residential purposes and which does not change the character or appearance thereof;
3. Is clearly incidental to and compatible with the surrounding residential uses;
4. Employs no more than two (2) persons other than family members residing in the dwelling unit; and
5. Has no exterior display or storage of goods or stock in trade other than products entirely produced within the residential dwelling unit. (By way of illustration and not of limitation, this shall include: Foods such as breads, cookies or preserves; dressmaking; rugs; quilts; bird-houses; fishing flies and lures.)

The following are examples of permitted uses under this definition:

- (1) The office of a doctor, lawyer, teacher or musician;
- (2) The office of a real estate broker, a salesman or an insurance agent;

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\*For the purposes of the definition of a home occupation, a residence is defined as a dwelling unit occupied for more than seven (7) months annually.

## § 17

## DEXTER CODE

- (3) A woodworking shop;
- (4) A bed and breakfast, inn, or other similar lodging place, as long as the number of guest bedrooms is three (3) or less.

The following uses are specifically prohibited as a "home occupation":

- (1) Automobile rentals, sales, repair or body repair;
- (2) Small engine repair;
- (3) Welding or other similar activities;
- (4) Any occupation which, after planning board deliberation, is deemed not to be in the best interests of the health or safety of the inhabitants of Dexter or the conservation and preservation of the healthful conditions of the waterbodies and shoreland areas in Dexter.

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

*Individual private campsite:* An area of land which is not associated with a campground, but which is developed for repeated camping by only one (1) group not to exceed ten (10)

## APPENDIX A—SHORELAND ZONING

§ 17

individuals and which involves site improvements which may include, but not be limited to, gravel pads, parking areas, fire places or tent platforms.

*Industrial:* The assembling, fabricating, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

*Junkyard:* A "junkyard" means a yard, field or other outside area used to store, dismantle or otherwise handle:

- A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture;
- B. Discarded, scrap and junked lumber; and
- C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.

*Lot area:* The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a waterbody or upland edge of a wetland and areas beneath roads serving more than two (2) lots.

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

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

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

*Minimum lot width:* The closest distance between the side lot lines of a lot. When only two (2) lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

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

*Nonconforming lot:* A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage or width requirements of the district in which it is located.

*Nonconforming structure:* A structure which does not meet any one (1) or more of the following dimensional requirements: Setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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

*Normal high-water line:* That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land.

*Person:* An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two (2) or more individuals having a joint or common interest, or other legal entity.

## APPENDIX A—SHORELAND ZONING

§ 17

*Piers, docks, wharfs, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland:*

1. *Temporary:* Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.
2. *Permanent:* Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

*Principal structure:* A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

*Principal use:* A use other than one which is wholly incidental or accessory to another use on the same premises.

*Public facility:* Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

*Recent floodplain soils:* The following soil series as described and identified by the National Cooperative Soil Survey:

1. Alluvial/Cornish/Charles.
2. Fryeburg/Hadley/Limerick.
3. Lovewell/Medomak/Ondawa.
4. Podunk/Rumney/Saco.
5. Suncook/Sunday/Winooski.

*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 (1) or more persons, and which may include, a pick-up camper, travel trailer, tent trailer, camp trailer



## § 17

## DEXTER CODE

and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the state division of motor vehicles.

*Replacement system:* A system intended to replace:

1. An existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or
2. Any existing overboard wastewater discharge.

*Residential dwelling unit:* A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one (1) family. The term shall include mobile homes, but not recreational vehicles.

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

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

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

*Service drop:* Any utility line extension which does not cross or run beneath any portion of a waterbody provided that:

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

## APPENDIX A—SHORELAND ZONING

§ 17

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

*Setback:* The nearest horizontal distance from the normal high-water line to the nearest part of a structure, road, parking space or other regulated object or area.

*Shore frontage:* The length of a lot bordering on a waterbody measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

*Shoreland zone:* The land area located within three hundred fifty (350) feet, horizontal distance, of Lake Wassookeag and within two hundred fifty (250) feet, horizontal distance of the normal high-water line of any great pond, or river; within two hundred fifty (250) feet of the upland edge of a moderate to high value freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream or freshwater wetland as depicted on the official shoreland zoning map.

*Stream:* A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 Minute Series Topographic Map, or if not available, a fifteen-minute series topographic map, to the point where the body of water becomes a river or flows to another waterbody or wetland within the shoreland area. For the purposes of this Ordinance, streams shall also include the outlets of all wetlands and all streams flowing into Lake Wassookeag as identified on the official shoreland zoning district map.

*Structure:* Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

*Substantial start:* Completion of thirty (30) per cent 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 ditch(es), alternative toilet(s), 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 M.R.S.A. § 414, any surface wastewater disposal system licensed under 38 M.R.S.A. § 413(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 M.R.S.A. Chapter 13, subchapter 1.

*Sustained slope:* A change in elevation where the referenced per cent 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 approved construction.

*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 terrestrial vegetation or presence of by the presence of a bed devoid of topsoil, containing waterborne deposits on exposed soil, parent material or bedrock, and which is connected hydrologically with other waterbodies. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving waterbody or wetland. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

*Upland edge:* The boundary between upland and wetland.

## APPENDIX A—SHORELAND ZONING

§ 17

*Vegetation:* All live trees, shrubs, groundcover and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at four and one-half (4½) above ground level.

*Volume of a structure:* The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

*Waterbody:* Any great pond, river or stream.

*Water crossing:* Any project extending from one (1) bank to the opposite bank of a river or stream, whether under, through or over the watercourse. Such projects include, but may not be limited to, roads, fords, bridges, culverts, water lines, sewer lines, and cables, as well as maintenance work on these crossings.

*Wetland:* A freshwater wetland.

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

(Ord. No. C2009-1, 3-12-09; Ord. No. C2015-19, 11-12-15)



**APPENDIX B**  
**REGULATIONS FOR REVIEWING LAND**  
**SUBDIVISIONS\***

**Article I. Purpose.**

1.1. The purpose of these standards shall be to ensure the comfort, convenience, safety, health and welfare of the people; 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 Dexter, Maine, the planning board shall consider the following criteria and before granting approval shall determine that the proposed subdivisions:

- (a) Will not result in undue water or air pollution. In making this determination, it shall at least consider:
  - 1. The elevation of the land above sea level and its relation to the floodplains;
  - 2. The nature of soils and subsoils and their ability to adequately support waste disposal;
  - 3. The slope of the land and its effect on effluents;
  - 4. The availability of streams for disposal of effluents; and
  - 5. The applicable state and local health and water resource rules and regulation.

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**\*Editor's note**—Ord. No. C2007-8, adopted Aug. 9, 2007, amended Appendix B in its entirety to read as herein set out. Prior to amendment, Appendix B, pertained to similar subject matter and derived from Ord. No. C2000-25, adopted Dec. 14, 2000; Ord. No. C2001-22, adopted Oct. 11, 2001; and Ord. No. C2002-1, adopted Jan. 10, 2002. Grammatical errors and obviously misspelled words have been corrected without notation. Words added for clarification have been added in brackets. Amendments to Ord. No. C2007-8 are indicated by a history note immediately following the amended article.

**Cross references**—Administration generally, Ch. 2; floodplain management, Ch. 4; housing generally, Ch. 6; solid waste generally, Ch. 10; streets and sidewalks generally, Ch. 11, shoreland zoning, App. A.

## Art. I

## DEXTER CODE

- (b) *Sufficient water.* The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.
- (c) *Municipal water supply.* The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.
- (d) *Erosion.* The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
- (e) *Traffic.* The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
- (f) *Sewage disposal.* The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.
- (g) *Municipal solid waste and sewage disposal.* The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste and sewage, if municipal services are to be utilized.
- (h) *Aesthetic, cultural and natural values.* The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or the municipality, or rare and irreplaceable natural areas of any public rights for physical or visual access to the shoreline.
- (i) *Conformity with local ordinances and plans.* The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. I

- (j) *Financial and technical capacity.* The subdivider has adequate financial and technical capacity to meet the standards of this section.
- (k) *Surface waters; outstanding river segments.* Whenever situated entirely or partially within the watershed of any pond or lake or within two hundred fifty (250) feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water.
- (l) *Groundwater.* The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
- (m) *Flood areas.* Based on the Federal Emergency Management Agency's flood boundary and floodway maps and flood insurance rate maps, and information presented by the applicant, whether the subdivision is in a flood-prone area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation.
- (n) *Freshwater wetlands.* All potential freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.
- (o) *River stream or brook.* Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9.
- (p) *Stormwater.* The proposed subdivision will provide for adequate stormwater management.



## Art. I

## DEXTER CODE

- (q) *Liquidation harvesting.* Timber harvesting on the proposed subdivision, if any, does not meet the definition of liquidation harvesting pursuant to the Maine Forest Service standards.

**Article II. Authority and administration.**

## 2.1 Authority.

2.1.1. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A. §§ 4401—4407.

2.1.2. These standards shall be known and may be cited as "Subdivision Regulations of the Planning Board of the Town of Dexter, Maine."

**Article III. Definitions.**

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

*Affordable housing:* Housing units which will meet the sales price and/or rental targets established by the comprehensive plan for housing affordability.

*Applicant:* The person applying for subdivision approval under these regulations.

*Average daily traffic (ADT):* The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

*Buffer area:* A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

*Capital improvements program (CIP):* The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. III

*Capital investment plan:* The identification of the projects which need to be considered for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

*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.

*Common open space:* Land within or related to a subdivision, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

*Complete application:* An application shall be considered complete upon submission of the required fee and all information required by these regulations, or by a vote by the board to waive the submission of required information. The board shall issue a written statement to the applicant upon its determination that an application is complete.

*Complete substantial construction:* The completion of no less than thirty (30) per cent of the costs of the proposed improvements within a subdivision. The documented costs associated with the preparation of the subdivision prior to approval shall account for an amount not to exceed ten (10) per cent of the total cost of the proposed physical improvements. Following approval, all documented costs associated with the physical improvements to the subdivision shall be included. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multi-family development, or if the applicant proposes to construct buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

*Comprehensive plan:* A document or interrelated documents adopted by the legislative body, containing an inventory and analysis of existing conditions, a compilation of goals for the

## Art. III

## DEXTER CODE

development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

*Conservation easement:* A nonpossessory interest in real property imposing limitations of affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

*Contiguous lots:* Lots which adjoin at any line or point, or are separated at any point by a body of water less than fifteen (15) feet wide.

*Density:* The number of dwelling units per acre of land.

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

*Direct watershed of a great pond:* That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the board with information from a registered land surveyor showing where the drainage divide lies.

*Driveway:* A vehicular access-way serving two (2) dwelling units or less.

*Dwelling 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

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. III

and sanitary facilities; includes single-family houses, and the units in a duplex, apartment house, multifamily dwelling, and residential condominiums.

*Easement:* The authorization of a property owner for the use by another and for a specified purpose of any designated part of his property.

*Engineered subsurface wastewater disposal system:* A subsurface wastewater disposal system designed, installed, and operated as a single unit to treat two thousand (2,000) gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater.

*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.

*Freshwater wetland:* Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

*Great pond:* Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty (30) acres, except for the purpose of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

*High intensity soil survey:* A soil survey conducted by a certified soil scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to one-eighth ( $\frac{1}{8}$ ) acre or less at a scale equivalent to subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and

## Art. III

## DEXTER CODE

the depth to seasonal high water table or bedrock at that point. Single soil test pits and their evaluation for suitability for subsurface waste-water disposal systems shall not be considered to constitute high intensity soil surveys.

*Multifamily development:* A subdivision which contains three (3) or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

*Municipal engineer:* Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

*Net residential acreage:* The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas which are unsuitable for development as outlined in section 12.11.C.3.

*Net residential density:* The average number of dwelling units per net residential acre.

*Normal high water elevation of inland waters:* That line on the shores of banks on nontidal water which is apparent because of the contiguous different character of the soil or the 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, partridgeberry, sarsaparilla, 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 (rock slides, 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.

*Official submittal date:* The date upon which the board issues a receipt indicating a complete application has been submitted.

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. III

*100-year flood:* The highest level of flood that, on the average, is likely to occur once every one hundred (100) years (that has a one per cent chance of occurring in any year).

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

*Planning board:* The Planning Board of the Town of Dexter created under Title 30-A M.R.S.A. § 4964.

*Preliminary plan:* A preliminary drawings indicating the proposed layout of the subdivision to be submitted to the planning board for its consideration.

*Professional engineer:* A professional engineer, registered in the State of Maine.

*Public water system:* A water supply system that provides water to at least fifteen (15) service connections or services water to at least twenty (25) individuals daily for at least thirty (30) days a year.

*Recording plan:* An original of the final plan, suitable for recording at the registry of deeds and which need show on information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

*Reserved affordable housing:* Affordable housing which, is restricted by means of deed covenants, financing restrictions, or other binding, long term methods to occupancy by households making eighty (80) per cent of the area median household income.

*Sight distance:* The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

*Sketch plan:* Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision ap-

## Art. III

## DEXTER CODE

proval. May be used by the applicant as the basis for preparing the subdivision plans as part of the application for subdivision approval.

*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 that serves as a major traffic way for travel between and through the municipality.

*Collector street:* A street servicing at least fifteen (15) lots or dwelling units, or streets that serve as feeders to arterial streets and collectors of traffic from minor streets.

*Cul-de-sac:* A street with only one (1) outlet and having the other end for the reversal of traffic movement. For minor streets, minor residential streets and private right-of-way roads, a T turn-around is allowed upon documentation of safety for property owners.

*Industrial or commercial street:* Streets servicing industrial or commercial uses.

*Minor street:* A street servicing less than fifteen (15) lots or dwelling units.

*Minor residential street:* A street servicing only residential properties and which has an average daily traffic of less than two hundred (200) vehicles per day.

*Private right-of-way:* A minor residential street not intended to be dedicated as a public way.

*Subdivision:* The division of a tract or parcel of land into three (3) or more lots within any five-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings, the conversion of existing structures in common ownership to single ownership, or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units within a five-year period, the construction of three (3) or more dwelling units on a

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. III

single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five-year period.

- A. In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of the tract or parcel is considered to create the first two (2) lots and the next dividing of either these first two (2) lots, by whom-ever accomplished, is considered to create a third lot, unless:
  - (1) Both dividings are accomplished by a subdivider who has retained one (1) of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least five (5) years immediately preceding the second division.
- B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.
- C. A lot of forty (40) or more acres shall not be counted as a lot, except:
  - (1) When the lot of parcel from which it was divided is located entirely or partially within any shoreland area as defined in title 38, section 435, or Dexter's Shoreland Zoning Ordinance (included as appendix A of this volume).
- D. (1) A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.



## Art. III

## DEXTER CODE

- D. (2) A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- D. (3) A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- D. (4) A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of five (5) years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within five (5) years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than one-half the assessed value of the real estate.
- D. (5) A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- D. (6) A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within five

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. III

(5) years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subchapter.

- E. The division of a tract or parcel of land into three (3) or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971, is not a subdivision.
- F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.
- G. Notwithstanding the provisions of this section, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.
- H. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D.(1) to D.(6), or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

*Tract or parcel of land:* All contiguous land in the same ownership, provided that lands 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.

*Usable open space:* That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding ten (10) per cent.  
(Ord. No. C2011-8, 8-11-11)

**Cross reference**—Definitions and rules of construction generally, § 1-2.

## Art. IV

## DEXTER CODE

**Article IV. Instructions to applicant.**

4.1. Procedure. The review of a subdivision shall consist of three (3) steps as outlined below:

4.1.1. Submission of a sketch plan. The sketch plan shall consist of a rough outline of the proposed subdivision and may be a freehand, penciled sketch of the parcel, showing the proposed layout of streets, lots, and other features which may be of assistance to the planning board in making its determinations. In order for the planning board to be more fully informed about the site, the subdivider shall arrange a joint inspection of the site with the planning board, or an individual appointed by the chairman to act as the board's representative. The on-site inspection may be conducted at, or shortly after the submission of the sketch plan, but this phase of the application process will not be considered complete until such inspection has been made.

4.1.2. Submission of a preliminary plat plan. Upon submission of a sketch plan, and following an on-site inspection, the planning board will outline, by checking specific items on this application, the specific requirements for preliminary plat submission. Specific requirements will vary according to the size and complexity of the subdivision proposal. In some instances, the planning board may waive the requirement for a preliminary plat plan submittal, in which case this application form must be submitted with the final plan. Within thirty (30) days of receipt of application, the board will determine that the application is complete, or if incomplete, will request additional information. If requested information is not provided within ninety (90) days the application will be deemed to have been withdrawn. Within thirty (30) days of determining that the application is complete, the board will hold a public hearing. The preliminary plan may be approved at the same meeting as the public hearing, or within thirty (30) days of the public hearing. This time period may be extended by mutual agreement of the board and the subdivider if the public hearing uncovers a need for additional information. The planning board may re-

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. IV

quire the applicant to pay into a special account the cost to the town of hiring independent consulting services for assistance in reviewing applications and to provide project inspection as needed. The fee shall be determined after the planning board has secured an estimate of the cost of the services and the applicant has seen the estimate. If the balance in the special account established for the

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. IV

purpose is drawn down by seventy-five (75) percent the board shall notify the applicant and require an additional amount. Any balance in the account remaining after a final decision on the application shall be returned to the applicant.

4.1.3. Submission of a final plat plan. After any apparent deficiencies in the preliminary plan have been corrected, a final plat plan must be submitted to the planning board. Your application for subdivision approval will not be considered complete until the final plat plan has been submitted. The board may place a condition on the final approved plan that any necessary DEP permits be obtained prior to the start of development, and that subdivisions that fall under the Site Location Act (Title 38 M.R.S.A. § 481-490) obtain necessary permits prior to the start of development. The final plat plan shall consist of one (1) original and three (3) copies of all maps or drawings similar to the maps or drawings prepared for preliminary plat submission, except that space should be reserved on the plat plan for the endorsement of all appropriate agencies, and for the attachment of specific conditions of approval. In addition, items checked on the form entitled "Notification of Requirements for Final Plat Plan" will be considered complete. Specific details concerning the drafting of the plat plan may be found in Appendix 1. All applications for final plan approval for subdivisions shall be accompanied by an application fee of eighty dollars (\$80.00) plus twenty dollars (\$20.00) per lot or dwelling unit, payable by check to the Town of Dexter. An additional fee to cover the additional costs of advertising and postal service if the application reaches the public hearing stage will be required.

4.1.4. The planning board shall, within sixty (60) days from the date of submission, approve or disapprove the final plan. The board shall specify in writing the reasons for any disapproval.

## Art. V

## DEXTER CODE

**Article V. General requirements.***[5.1 Contents, approval of plan.]*

5.1.1. Water supply system proposals contained in the subdivision plan shall be approved in writing by:

- (a) The Dexter Utility District if existing public water service is to be used;
- (b) The State of Maine Department of Health and Welfare if the subdivider proposes to provide a central water supply system; or
- (c) At the request of the planning board, the subdivider may be required to provide the results of tests by a civil engineer registered in the State of Maine relative to the quantity and quality of water to be furnished by individual wells serving each building site. The board may also require the subdivider to submit the results of water quality test as performed by the Maine Department of Health and Welfare. Such approval shall be secured before official submission of the final plan.

If water lines from the Dexter Utility District are located within three hundred (300) feet of the property line of a new residence, it is mandatory that the residence be served by the Dexter Utility District lines.

5.1.2. Sewage disposal system proposals and/or storm drainage systems contained in the subdivision plan shall be properly endorsed and approved in writing by:

- (a) The Dexter Utility District if existing public disposal systems are to be used; or
- (b) When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analysis, prepared by a licensed site evaluator shall be provided. A map showing the location with the soil types named of all test pits on each lot shall be submitted. If the index rating on the Soils Potentials Index is below sixty (60) the board may require a high intensity soil survey.

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. V

- 5.1.3. A public hearing shall be held by the planning board within thirty (30) days after the finding of a completed application and the public hearing must be advertised at least two (2) times in the newspaper before the hearing date. This hearing shall be advertised in a newspaper of local circulation at least ten (10) days before such hearing and notice of this hearing shall be posted in at least three (3) places, prominently displayed, at least ten (10) days prior to the hearing. In the case of a plan located within five hundred (500) feet of a neighboring municipal community, notice of the hearing shall be forwarded to the regional planning commission, of which such municipality is a member and to the clerk of the appropriate adjacent municipality at least ten (10) days prior to the hearing. It will be the responsibility of the subdivider to reimburse the municipality for notifying all abutting property owners by registered mail of the upcoming public hearing. If the subdivision is located in more than one (1) municipality, the board shall have a joint meeting with the planning board of the adjacent municipality to discuss the plan.
- 5.1.4. Before the planning board grants approval of the final plan:
- (1) The subdivider shall provide guaranties in one (1) of the following methods approved by the planning board and acceptable as to form by the town attorney:
    - (a) Completion of construction of all improvements prior to the final plan approval.
    - (b) Posting of a surety bond in an amount sufficient to cover costs of the proposed improvements.
    - (c) Placing of cash in escrow in an amount sufficient to cover costs of the proposed improvements.
    - (d) Submittal of a letter of credit from an established banking institution guaranteeing suffi-

## Art. V

## DEXTER CODE

cient funds to cover costs of the proposed improvements and recognizing the town's interest in such improvements.

- (e) Such other guaranty as the planning board shall find acceptable and shall be approved by the town attorney and town manager.
- (2) Such guaranties shall be provided by the applicant within one hundred twenty (120) calendar days of the date of approval by the planning board or the conditional approval shall lapse and the application shall be considered void. No subdivision plan shall be recorded in the registry of deeds unless and until the requirements of this subsection are met.

*5.2. Inspection of required improvements.*

5.2.1 At least five (5) days prior to commencing construction of required improvements, the subdivider shall pay an inspection fee equal to the estimated cost of inspection by the inspector appointed by the planning board, payable by check to the Town of Dexter stating the purpose of the fee. The subdivider shall notify the municipal officers in writing of the time when he proposes to commence construction of such improvements so that the municipal officers can cause inspection to be made to ensure that all municipal specifications and requirements shall be met during the construction of required improvements, and to ensure the satisfactory completion of improvements and utilities required by the planning board.

5.2.2. To guarantee that the construction standards of section 7.8 of this ordinance are being complied with, during the construction of any and all proposed streets and roads in a subdivision the subdivider shall notify the municipal officers at the following stages:

1. When the subbase has been exposed, prior to the placing of the GEO-Textile Fabric.
2. When the base course has been placed and compacted.



## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. V

3. When the surface course has been placed and compacted, prior to covering with bituminous paving (where applicable).
  4. When the bituminous paving has been applied.
- 5.2.3. If the public works director or other appointed inspector shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he or she shall so report to the municipal officers, code enforcement officer, and planning board. The municipal officers shall then notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the municipality's rights under the bond. No plan shall be approved by the planning board as long as the subdivider is in default on a previously approved plan.
- 5.2.4. If at any time before or during construction of the required improvements it is demonstrated to the satisfaction of the appointed inspector that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the municipal inspector or his appointee may, upon approval of the planning board, authorize modifications provided these modifications are within the spirit and intent of the planning board's approval and do not substantially alter the function of any improvements required by the board. The appointed inspector shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the planning board at its next regular meeting.
- 5.2.5. The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the town council.

## Art. V

## DEXTER CODE

5.3. *Submission.*

5.3.1. There shall be submitted to the board with the final plan:

- (a) Written offers of cession to the municipality of all public open space shown on the plan; copies of agreements showing the manner in which all open spaces reserved by the subdivider are to be maintained.
- (b) Written evidence that the municipal officers are satisfied with the legal sufficiency of the documents referred to in paragraph (a) above. Such written evidence shall not constitute an acceptance by the municipality of any public open space referred to in paragraph (a) above.
- (c) A performance bond to secure completion of all improvement required by the board and written evidence that the municipal officers are satisfied with the sufficiency of such bond pursuant to section 5.1.4 of this appendix. Upon final approval of the improvements, a reserve of ten (10) per cent shall be held by the Town of Dexter to guard against defects. This reserve shall be released to the developer after one (1) year from the final approval of the improvements should no defects be found. Defects may be repaired by the town and paid for from the reserve provided the developer is given notice of the defects and declines to repair the defects before the one-year anniversary of the inspection.
- (d) If any portion of the subdivision is in a flood prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

5.4. *Final approval and filing.*

5.4.1. Upon completion of the requirements, it shall be deemed to have final approval and shall be signed by a majority of the members of the planning board and shall be filed by the applicant with the code enforcement officer. The plan

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. VI

shall then be filed with the Penobscot County Registry of Deeds by the town. Failure to commence substantial construction of a subdivision plan within three (3) years from date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the board shall have a notice placed in the registry of deeds to that effect.

5.5. *Plan revisions after approval.*

5.5.1. 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 plan is first resubmitted and the planning board approves any modifications. In the event that a final plan is recorded without complying with this requirement, the same shall be considered null and void, and the board shall institute proceedings to have the plan stricken from the records of the municipal officers and the registry of deeds.

5.6. *Public acceptance of streets, recreation areas.*

5.6.1. The approval by the planning board of a subdivision plan shall not be evidence of acceptance by the municipality of any street, easement or other open space shown of such plan.

5.6.2. When a park, playground, or other recreation area shall have been shown on the plan, approval of the plan shall not constitute an acceptance by the municipality of such areas. The planning board shall require the plan to be endorsed with appropriate notes to this effect. The planning board may also require the filing of a written agreement between the applicant and municipal officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment and maintenance of any such recreation areas.

**Article VI. Enforcement.**

6.1. No plan of a subdivision of land within the municipal boundaries which would constitute a subdivision as defined herein shall be recorded in the registry of deeds until a final plan

## Art. VI

## DEXTER CODE

shall have been approved by the planning board in accordance with all of the requirements, design standards, and construction specifications set forth elsewhere in these standards, nor until such approval shall have been entered on such final plan by the planning board.

6.2. 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 planning board and recorded in the registry of deeds.

6.3. 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 this section shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00) for each conveyance, offering or agreement. Each day shall be considered a separate violation. The attorney general, the municipality or the appropriate municipal officers may institute proceedings to enjoin the violation of this section.

6.4. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the planning board.

6.5. Not only is making a subdivision without planning board approval a violation of the law, by so also within such a subdivision is construction of buildings until such time as a final plan of such subdivision shall have been duly prepared, submitted, reviewed, approved and endorsed as provided in these standards, and until the original copy of the final plan so approved and endorsed has been duly recorded in the Penobscot County Registry of Deeds.

**Article VII. Other requirements.**

7.1. [*Generally.*] In reviewing applications for the subdivision of land, the board shall consider the following general requirements. In all instances the burden of proof shall be upon the person proposing the subdivision. In no instance shall the planning board or its members, the municipality, or any of its officers

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. VII

be held liable for expenses or other costs which may be incurred by the Dexter Planning Board Standards for Reviewing Land Subdivisions.

*7.2. Subdivision plan shall conform to the comprehensive plan.* Any proposed subdivision shall be in conformity with the comprehensive plan or policy statement of this municipality and with the provisions of all pertinent state and local codes and ordinances. All proposed lots shall meet the minimum lot size and frontage requirements of the Dexter Land Use Ordinance and the Dexter Shoreland Zoning Ordinance.

*7.3. Relationship of subdivision to community services.* Any proposed subdivision shall be reviewed by the board with respect to the effect upon existing services and facilities. The final plan shall include a list of the construction items that will be completed by the developer prior to the sale of lots and the list of construction and maintenance items that must be borne by the municipality, which shall include but not be limited to:

Schools, including busing;

Road maintenance and snow removal;

Police and fire protection;

Solid waste disposal;

Recreation facilities;

Runoff water disposal drainage ways and sewer enlargement with sediment traps.

*7.4. Preservation of natural and historic features.* The board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (ten (10) inches in diameter or more), the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.

## Art. VII

## DEXTER CODE

7.5. *Land not suitable for development.*

7.5.1. The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the minimum lot size law:

- (a) Land which is situated below the high water mark of any water body.
- (b) Land which is located within the 100-year frequency floodplain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the subdivider show proof through the submittal of materials prepared by a registered land surveyor which shows that the property in question lies at least two (2) feet above the 100-year flood level. The elevation of filled land shall not be considered.
- (c) Land which is part of a right-of-way or easement including utility easements.
- (d) Land which has a water table within ten (10) inches of the surface for at least three (3) months of the year as identified by the county soil survey. The board may use such lands in the lot area calculations if municipal sewage collection and treatment is provided and if the lot(s) are to be deed restricted to prohibit buildings with basements or require basement floor elevations one (1) foot above the seasonal water table.
- (e) Land that has been created by filling or draining a pond or wetland.

7.5.2 Wherever situated, in whole or in part, within two hundred fifty (250) feet of the high water line of any pond, lake or river, or within three hundred fifty (350) feet of the high water line of Lake Wassookeag, a proposed subdivision shall conform to the shoreland zoning ordinance.

7.6. *Utilities.*

7.6.1. The size, type and location of public utilities, such as streetlights, electricity, telephones, gas lines, fire hydrants, etc., shall be approved by the board and installed in accordance with the board's directives.

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. VII

7.6.2. All sewage and water systems shall be installed underground except as otherwise approved by the board. Other utilities shall be installed in accordance with the board's directives.

7.7. *Additional requirements.*

7.7.1 Street trees, esplanades, and open spaces may be required at the discretion of the planning board. Where such improvements are required, they shall be incorporated in the final plan and executed by the subdivider as construction of the subdivision progresses.

7.7.2 The subdivision design shall minimize the possibility of noise pollution whether from within or without the development (from highway or industrial sources) by providing and maintaining a green strip at least twenty (20) feet wide between abutting properties that are so endangered.

7.7.3 For any subdivision proposed within the watershed of the great ponds in the Township of Dexter, A completed phosphorus runoff study will be required as part of the preliminary plan. According to the procedure in "Phosphorus Control in Lake Watershed: A Technical Guide to Evaluating New Development," published by the Maine Department of Environmental Protection, September 1989, the applicant will determine the subdivision's potential to export phosphorus into the lake in terms of:

- (1) The lake's ability to assimilate the phosphorus; and
- (2) The cumulative impact to other new additional phosphorus sources entering the lake over time.

7.8. *Street design and improvement standards.* The purpose of these road and traffic standards are to:

1. Establish minimum specifications for all proposed roads in a subdivision.
2. Establish procedures and standards for the acceptance of a subdivision road as a public road.
3. Establish design and construction standards for safe traffic access.

## Art. VII

## DEXTER CODE

4. Establish minimum standards for traffic safety and the carrying capacity of all proposed roads in a subdivision.
5. Establish standards for roadway drainage systems.
6. Establish standards for road durability and a reasonable service life.
- 7.8.1.a. Collector roads shall have a minimum right-of-way of three and one-half (3½) rods and all other streets and roads shall have a minimum right-of-way of three (3) rods. For the purposes of this section, a rod is defined as sixteen and one-half (16½) feet.
- 7.8.1.b. Collector roads shall have a minimum travel way width of twenty-two (22) feet and all other streets and roads shall have a minimum travel way width of twenty (20) feet.
- 7.8.1.c. All streets and roads shall have a minimum shoulder width of four (4) feet, with a shoulder grade of one-fourth foot.
- 7.8.1.d. Collector roads shall have a minimum travel way width of twenty-two (22) feet and all other streets and roads shall have a minimum travel way width of twenty (20) feet.
- 7.8.1.e. Minor street and minor residential street developments may use private right-of-way standards in lieu of the street standards cited in sections 7.8—7.8.10 street design and improvement standards of this ordinance.

*Private right-of-way standards:*

Road width	Tread width	Surface	Shoulder width	Grades	Side Slopes
14 feet	10 feet	See below	2 feet	10% maximum	2 to 1
20 feet	16 feet	See below	2 feet	10% maximum	2 to 1

*Surfacing:* Private right-of-way roads shall be given a wearing course or surface treatment if required by traffic needs, soil, climate, erosion control, or particulate matter emission control. The type of treatment, if needed, depends on local conditions, available materials, and the



## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. VII

existing road base. If these factors or the volume of traffic is not a problem, no special treatment of the surface is required. On weak bearing capacity soils such as silts, organics and clays, the surface treatment should be underlain with a geo textile material specifically designed for road stabilization applications when the road is used on a regular basis.

*Dead-end roads:* All roads must have an approved termination, either cul-de-sac or turnaround approved by the planning board as part of the subdivision approval.

*Please note:* Turnouts shall be used on single lane roads where vehicles travel in both directions on a limited basis. Where turnouts are used, road width shall be increased to a minimum of twenty (20) feet for a distance of thirty (30) feet.

*Construction operations for private right-of-way roads:* Construction operations should be carried out in such a manner that erosion and air and water pollution are minimized and held within legal limits. Construction shall include the following requirements as necessary for the job:

1. Trees, roots, weeds and other objectionable material shall be removed from the work area.
2. Unsuitable material shall be removed from the roadbed area.
3. Grading, subgrade preparation, and compaction shall be done as needed.
4. Surfacing shall be done as needed.
5. Measures must be in place to limit the generation of particulate matter during construction.

Inspections are required by the code enforcement officer before construction, during construction and upon the completed private right-of-way road. A property owner association is required and the maintenance of the road must be shared as defined in the association documents.

## Art. VII

## DEXTER CODE

7.8.2. New streets shall be laid out as to accommodate the potential continuation of a proposed principal street onto contiguous or adjacent properties and existing or potential public ways. This shall be accomplished by the creation of a right-of-way, of identical width required for the proposed principal street, extended from cul-de-sacs to the nearest adjacent property. In determining the location of the right-of-way intersection with an adjacent property line, the planning board shall consider impacts on the adjacent parcel, on existing land uses, the location of existing and potential roadways, and the carrying capacity of adjacent land areas to accommodate roadways without adverse impacts on surface waters, freshwater wetlands and flood areas.

Nothing in this subsection will be constructed to mean there would be any time limitation concerning the actual construction, and connection to adjacent properties, roadway improvements undertaken for an approved subdivision project.

7.8.3. To allow for an adequate turn around area, permanent dead-end streets shall be equipped at the closed end with a minimum diameter for the street line of not less than one hundred ten (110) feet.

7.8.4.a. To ensure proper drainage, all street grades shall not be less than one (1) per cent; and to secure proper drainage and for public safety, not more than eight (8) per cent, unless this requirement is specifically waived by the board.

7.8.4.b. To ensure proper drainage, culverts installed on collector roads must be a minimum of eighteen (18) inches in diameter, and culverts installed on all other streets and roads must be a minimum of fifteen (15) inches.

7.8.4.c. In addition to the above subsection, the size and type of all culverts to be installed on any street or road must be approved in advance by the Town of Dexter Public Works Director.

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. VII

- 7.8.5. Street intersections and curves (vertical and horizontal) shall be so designed as to permit adequate visibility for both pedestrians and vehicle traffic. Curves in general shall have a minimum radius of one hundred seventy-five (175) feet and no interchange shall be acceptable at less than ninety (90) degrees (add) for collector roads and sixty (60) degrees for all other streets and roads. Street lines shall be drawn so that street intersections shall have a 20-foot minimum curve radius. Also, any deflection angle in a street line greater than ten (10) degrees shall require a curved street right-of-way. Unless specifically approved otherwise by the board, the roadway shall be centered within the right-of-way.
- 7.8.6. Whenever the board finds need for the reservation of one (1) or more rights-of-way or one (1) or more reserve strips such reservations shall be made before final approval of a subdivision plan.
- 7.8.7.a. No street shall be recommended for public acceptance until it has been properly improved for a period of twelve (12) months and approved by the planning board and the appointed inspector in accordance with these regulations and other applicable standards adopted by the town.
- 7.8.7.b. In addition to the above subsection, to be eligible for consideration for public acceptance all streets and roads in a subdivision with access onto an existing paved state or local road shall be paved with bituminous pavement (defined as two-inch grade B binder to M.D.O.T. specifications of section 403.07, and one and one-quarter (1<sup>1/4</sup>) inch grade C surface to M.D.O.T. specifications of section 403.08) a minimum distance of seventy-five (75) feet as measured from the edge of the existing road onto the proposed road.
- 7.8.8. Added extensions to existing subdivision streets may be submitted and accepted by the town in any length but will be surfaced in increments of not less than five hundred (500) feet.

## Art. VII

## DEXTER CODE

7.8.9. The following steps for the preparation of streets shall be carried out at the expense of the developer under the supervision of the appointed inspector: Drainage facilities, sanitary and storm curbs and sidewalks, shall be provided to the extent deemed necessary by the board. The entire right-of-way of each street shall be cleared and graded so that no slope exceeds a ratio of 1 to 2, with a minimum fill slope of 3-1. All loam and other yielding material shall be removed from the roadway area of each street or way and replaced with suitable compacted material.

7.8.10. All roadways shall be improved by the developer to the following minimums:

1. *Sub-base.* The sub-base shall be compacted and free of vegetation or other deleterious substances, and the entire sub-base shall be covered over with a GEO-textile fabric, either synthetic industries # 401 or the equivalent;
2. *Base.* The base course shall be constructed of eighteen (18) inches of material specified in the Maine D.O.T. Standard Specifications for Highways and Bridges, section 703.6, compacted, in place, with no particle exceeding six (6) inches in diameter;
3. *Width of base.* No less than sixty (60) per cent of the right-of-way width;
4. *Surface course.* The surface course shall be constructed of twelve (12) inches of material specified in the Maine D.O.T. Standard Specifications for Highways and Bridges, section 703.6, compacted, in place, with no particle exceeding two (2) inches in diameter;
5. *Roadway crown.* The roadway shall be constructed with a cross slope of one-quarter-inch per foot of paved road width.

7.8.11. All water and sewer (storm and sanitary) facilities to be provided by the developer or subdivider must be in accordance with the systems and specifications in effect in

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. VII

the Town of Dexter. Drainage systems in the subdivision shall be designed assuming full development of the entire drainage area, whether inside or outside the subdivision, and based upon a ten-year flow. A separate plan of the entire drainage area may be required.

7.8.12. The ratio of lot length maximum to width shall not be more than 3 to 1. 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.

7.8.13. Sewage disposal:

1. *Public system.*

- a. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer located within one thousand (1,000) feet of the proposed subdivision at its nearest point. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's collection and treatment system.
- b. The sewer district shall review and approve in writing the construction drawings for the sewage system.

2. *Private system.*

- 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 Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within twenty-four (24) inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.

## Art. VII

## DEXTER CODE

- b. In no instance shall a disposal area be permitted on soils or on a lot which requires a new system variance from the subsurface wastewater disposal rules.
- c. If there are inadequate soils on any lot in the subdivision, but such lot can be serviced by a common subsurface disposal system located on adjacent property with adequate soil conditions for subsurface waste water disposal as specified in subsection 2.a. above, the requirement that each lot be serviced by a subsurface system located on that lot may be waived as to such lot, subject to the following:
  - 1. When two (2) or more lots and/or buildings in different ownership are served by a single common subsurface disposal system, the system shall be owned, operated, and maintained in common by the owners of the lots and buildings serviced by the common system;
  - 2. The developer shall reserve all necessary and appropriate easements across said adjacent property for the location and operation of the common system and all sewer lines, prior to conveyance of any lot in the subdivision; and all common land, facilities and property shall be owned jointly or in common by the owners of the dwelling units by means of a homeowners 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. Homeowners associations shall conform with the guidelines of section 7.8.14.; and
  - 3. The developer shall impose covenants in the deeds to lots serviced by a common system that require adequate funding to ensure proper maintenance of the system.

## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. VII

## 7.8.14. [Common property.]

1. Further subdivision of the common land or its use for other than noncommercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to noncommercial recreational or conservation uses may be erected on the common land.
2. 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 of all of the common open space may be dedicated for acceptance by the municipality.
3. The bylaws of the proposed homeowners association shall specify maintenance responsibilities and shall be submitted to the board prior to final approval.
4. Covenants for mandatory membership in the homeowners association setting forth the owner's 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.
5. The homeowners association shall have the responsibility of maintaining the common property of facilities.
6. 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.
7. The developer or subdivider shall maintain control of the common property and be responsible for its maintenance until development sufficient to support the association has taken place.

7.8.15. The board may require an erosion and sedimentation control plan, prepared in accordance with the latest revised edition of the Environmental Quality Handbook published by the U.S. Soil Conservation Service. If re-

## Art. VII

## DEXTER CODE

quired by the board and accepted, the procedures outlined in the plan shall be implemented during the site preparation, construction, and clean-up stages.  
(Ord. No. C2011-8, 8-11-11)

**Article VIII. Release of guaranty check or bond.**

8.1 Before a subdivider may be released from any obligation required by his guarantee of performance, the board will require certification from the municipal engineer or appointed engineer and whatever other agencies and departments that may be involved, to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, state and local codes and ordinances.

**Article IX. Variances and waivers.**

9.1. 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 that public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purposes of the comprehensive plan, the shoreland zoning ordinance or these regulations, and provided the criteria of the state subdivision law are met.

9.2. When the board grants a waiver to any of the standards of these regulations, the final plan shall indicate the waivers granted and the date on which they were granted.

9.3. The board must issue a certificate of any waiver granted to be filed with the registry of deeds within ninety (90) days of the final plan approval date.

**Article X. Appeals.**

10.1. Any appeal from a decision of the planning board may be taken to the board of appeals in accordance with the following:

- a. *Making an appeal.*
  - (1) An administrative or variance appeal may be taken to the board of appeals by an aggrieved



## REGULATIONS FOR REVIEWING LAND SUBDIVISIONS Art. X

party from any decision of the planning board. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the board, upon a showing of good cause, may waive the 30-day requirement.

- (2) Such appeal shall be made by filing with the board of appeals a written notice of appeal which includes:
  - (i) A concise written statement indicating what relief is requested and why it should be granted.
  - (ii) A sketch drawn to scale showing the physical features of the lot pertinent to the relief sought.
- (3) 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.
- (4) The board of appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

b. *Decision by board of appeals.*

- (1) A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- (2) The concurring vote of a majority of the members of the board of appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the planning board, or to decide in favor of the applicant on any matter on which it is required to decide under this article, or to affect any variation in the application of this article from its stated terms. The board may reverse the decision, or failure to act, of the planning board

## Art. X

## DEXTER CODE

only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this article.

- (3) The person filing the appeal shall have the burden of proof.
- (4) The board shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- (5) 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, and the appropriate order, relief or denial thereof.

10.2. Reconsideration. The board of appeals may reconsider any decision within thirty (30) days of its prior decision. The board may conduct additional hearings and receive additional evidence and testimony.

10.3. 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 (45) days from the date of any decision of the board of appeals.

**Article XI. Separability and effective date.**

11.1. The invalidity of any provision of these standards shall not invalidate any other part.

11.2. These regulations shall take effect upon adoption by the council in conformance with the Charter of the Town of Dexter.