

2018

Town of Fairfield Maine Ordinances

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Town of Fairfield

Automobile Graveyard and Junkyard

Ordinance



The effective adoptive date of this Ordinance is the 9th day of October, 2002.

Amended:
May 9, 2018

A True Copy

Attest: _____
Town Clerk

Town Seal

Severability

Should any portion of this ordinance be found invalid for any reason by a court of competent jurisdiction, then all portions not found invalid shall remain unaffected and continue in full force and effect.

Section 1. Authority

This ordinance is enacted pursuant to Title 30-A, Section 3752- Section 3756 of the Maine Revised Statutes Annotated.

Section 2. Short Title

This ordinance shall be known and cited as the "Automobile Graveyard and Junkyard Ordinance of the Town of Fairfield".

Section 3. Purpose

The purpose of this ordinance is to provide adequate controls to ensure that automobile graveyards, automobile recycling businesses and junkyards do not have a negative impact on the Town's health, safety, general welfare and property values.

Section 4. Applicability

This ordinance shall apply to all automobile graveyards, automobile recycling businesses and junkyards as defined in Title 30-A M.R.S.A. Section 3752 and as further defined in Appendix A of this ordinance, which is incorporated herein by reference, whether located on private or commercial property. This ordinance shall not apply to the temporary storage, as defined in Appendix A.

Section 5. Permits Required

Unless otherwise provided by the Council, the Code Enforcement Officer shall be required to administer this ordinance. As provided for in this section, the Town Council shall issue all permits according to the requirements set forth below.

- 5.1 A person or entity may not establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard without first obtaining a nontransferable permit from the Town Council.

Including:

1. Any automobile graveyard, recycling business location or junkyard location that was created after the date of enactment of this ordinance.
2. Any proposed expansion to an existing site which is beyond the limit shown on the original site plan approved at the time the graveyard, recycling business or junkyard was first permitted prior to the date of enactment of this ordinance.
3. Any graveyard, recycling business or junkyard that has been in existence but never permitted.

- 5.2 All permits, whether new or renewals shall be issued annually. Permits shall become effective October 1st and expire September 30th of each year. An annual fee of \$100 will be charged for new or renewal permits. New permits issued during the year shall expire on September 30th and must be renewed for the next year.

- 5.3 Prior to approval of any permit, new or renewal, the Code Enforcement Officer shall inspect the site to ensure compliance with this ordinance and State automobile graveyards, automobile recycling businesses and junkyard laws.
- 5.4 Before granting a permit, the Town shall schedule a Public Hearing. A notice of said Hearing shall be sent to the Town Council and mailed to all abutting property owners, posted at the Town Office and one other public place and published in the local newspaper at least 7 and not more than 14 days before said Hearing. The cost of posting and publishing said notice shall be paid by the applicant. The Town Council shall give written or electronic notice of the application to establish a new automobile graveyard or automobile recycling business to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles by mailing a copy of the application at least 7 and not more than 30 days before the hearing.
- 5.5 Any permit granted with restrictions or conditions of approval shall clearly state those conditions or restrictions on or attached to the permit.
- 5.6 The denial of any permit shall be in writing and shall set forth the reasons for the denial.

Section 6. Right, Title, and Interest

No permit will be issued for an automobile graveyard, automobile recycling business or junkyard unless there is proof of ownership, a sale/lease agreement, or an authorization letter that the land (site) may be used for that particular type of operation.

- 6.1 All proof of ownership (copy of deed), lease agreement, or letter of agreement shall be on file at the Town Office at all times. All lease agreements and letters of agreements must show the number of years that the site may be used for that particular operation and must be notarized.
- 6.2 A person or entity may file an application for a permit on a site that already has a permit if the permit holder has a sales agreement with the person or entity seeking the permit. The permit may be granted but will only become valid when the transaction has been completed.

Section 7. Submission Requirements

Applicants for permit renewals shall be submitted by September 1st of each year. If found to be incomplete; the Code Enforcement Officer shall immediately notify the permit holder that the required information must be submitted prior to the Public Hearing date. If there are no changes to the ownership, size or nature of the existing automobile graveyard, automobile recycling business or junkyard facility, an applicant for a renewal permit does not need to submit the information as further described in this section, except as otherwise specified by the Town Council.

- 7.1 For new permit applicants, or for existing facilities which are proposed to be changed or expanded beyond the original permitted area, a completed application must be submitted at least 30 days prior to the required Public Hearing to provide the public an opportunity for review.

All such applications shall contain the following information:

- 7.2 The property owner's name and address and the name and address of the person or entity that will operate the site.
- 7.3 A site plan drawn to scale not to exceed 1" = 100', on which is shown:
- a. The boundary lines of the property
 - b. Soils information from Somerset County Soil Conservation Service web site:
<http://somensetswcd.org/>
 - c. The location of any and all gravel aquifer recharge area(s) as mapped by the Maine Geological Survey, or a licensed geologist web site:
<http://www.maine.gov/dacf/mgs/index.shtml>
 - d. The location of all wells within three hundred (300) ft. of where cars or junk will be placed
 - e. The location of any public building, schools, churches, playgrounds or public parks, public bathing beach within five hundred (500) feet of the area where cars or junk will be placed
 - f. The location of any water bodies on the property or within two hundred (200) feet of the property lines
 - g. The boundaries of the 100-year flood plain, if applicable
 - h. The location and name or route number of all roads within one thousand (1000) feet of the site
 - i. Yard access roads
 - j. Designated areas for the storage of vehicles, vehicle parts and any and all other items associated with this facility.

This site plan does not need to be an engineered drawing.

- 7.4 A written plan must be submitted describing how all fluids/special wastes will be stored and eventually disposed of. Estimates of quantities and schedules for removal and disposal must be included along with agreements with haulers. Storage and disposal of batteries and tires must also be addressed in this written plan to show compliance with State and Federal solid waste and hazardous waste regulations.
- 7.5 Copies of all permits and licenses held by the operator at this facility.
- 7.6 No permit will be issued for an automobile graveyard, automobile recycling business or junkyard to a person or entity seeking a new site or buying an existing site until all revoked permits and all violation and enforcement actions have been corrected. This would include not only local violations, but also any violations of State/Federal laws regardless of where committed.
- 7.7 Any person or entity submitting false or misleading information on an automobile graveyard, automobile recycling business or junkyard site permit application will be subject to revocation of the permit after a public hearing or a penalty of one thousand (\$1000) dollars or both if the

Town Council finds that the misleading or false information was critical to granting of the permit.

- 7.8 Highways; Interstate System and Primary System. A permit may not be granted for an automobile graveyard within 1,000 feet of the right-of-way of any highway incorporated in both the Interstate System and Primary System or within 600 feet of the right-of-way of any other highway, except for:
- A. Those automobile graveyards or junkyards that are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings or fences. Screening required by this paragraph must be:
- (1) At a height, density and depth sufficient to accomplish complete screening from ordinary view;
 - (2) Well constructed and properly maintained at a minimum height of 6 feet;
 - (3) Placed outside of the highway right-of-way; and
 - (4) Acceptable to the Town Council; and
- B. Those automobile graveyards or junkyards located within areas that have been zoned for industrial use and located more than 600 feet but less than 1,000 feet from the right-of-way of any highway incorporated in both the Interstate System and Primary System.

Section 8. Operating Standards

All automobile graveyards and junkyards permitted pursuant to State Law, Title 30 A, Section 3753 are required to comply with the following standards:

- 8.1 All fluids, including, but not limited to, engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water.
- 8.2 A vehicle containing fluids may not be stored or dismantled:
- (1) Within 100 feet of any body of water or freshwater wetland, as defined by Title 38, Section 436-A, Subsection 5;
 - (2) Within the 100-year floodplain; or
 - (3) Over a mapped sand and gravel aquifer.
- 8.3 Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into the inland waters of the State or on the ice of inland waters or on the banks of inland waters in such a manner that they may fall or be washed into these waters.
- 8.4 Junkyard and automobile graveyard owners must demonstrate at the time of licensing that the facility or facilities for which they seek permits are, or are part of, a viable business entity and the facility or facilities are actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade.
- 8.5 To reduce noise created by the commercial business that can be heard outside the premises, all dismantling of motor vehicles shall take place after 7:00 a.m. and before 6:00 p.m. Mondays through Saturdays. No dismantling of motor vehicles shall take place on Sundays.

- 8.6 Town Council Members shall designate the Code Enforcement Officer to carry out the provisions of this ordinance to determine compliance with any laws, ordinances, licenses or permit approvals to:
- A. Enter any automobile graveyard, automobile recycling business, or junkyard property and inspect all outside areas, equipment and activities at reasonable hours for compliance with this ordinance.
 - B. Enter any building on the property with the consent of the owner, occupant or agent to inspect the activities within any building for compliance with this ordinance.
- 8.7 No vehicles or junk shall be stored within three hundred (300) feet from the property line of any school, church, public playground, public park or cemetery or within ordinary view from a public building.
- 8.8 No vehicles or junk shall be dismantled or stored within three hundred (300) feet of a well that serves as a public or private water supply unless such well serves the business or the owner or owners abutting residence. Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to the effective date of this subsection and handling junk, scrap metal, vehicles or other solid waste within 300 feet of wells that serve as public or private water supplies may continue to operate in those locations under the terms of those permits. The Town Council may renew a permit allowing the continued handling of junk, scrap metal, vehicles or other solid waste within 300 feet of a well serving as a public or private water supply as long as no further encroachment toward the well occurs. The Town Council may not renew a permit if there is substantial, credible evidence that the permitted activities have caused contaminations of the well.
- 8.9 A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed.
- 8.10 All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or parts that render the vehicles incapable of being driven under their own motor power, appliances and other items within 180 days of acquisition. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable. Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable Federal and State laws, rules and regulations.

Section 9. Permit Denials, Revocations Clean Up

The Town Council may issue a permit to an automobile graveyard, automobile recycling business, or junkyard if that automobile graveyard, automobile recycling businesses or junkyard meets the operating standards set forth in section 8 of this ordinance and the Town Council may attach conditions of approval to all permits for automobile graveyards, automobile recycling businesses or junkyards.

Any automobile graveyard, automobile recycling or junkyard businesses permit application which is not approved at the time of review, has three (3) months from the expiration date to become relicensed. Any permit issued after three (3) months from the expiration date of the previous permit shall comply with all requirements for new site approvals. In other words, the site will lose its grandfathered status and be considered as a new permit site. This will also apply to any permits revoked during the year. The Code Enforcement Officer may grant one extension of not more than three (3) months of the time for correction of the violation if, based upon all relevant circumstances, that the person responsible for the violation cannot reasonably be expected to make the correction with the time allowed due to seasonal weather conditions, personal physical illness or financial hardship.

- 9.1 Any existing automobile graveyard, automobile recycling business/junkyard not issued a permit because of a lack of any application or an incomplete application must clean up the site within three (3) months of the date of expiration of the last permit issued.
- 9.2 In addition to its other enforcement options, the Town may revoke any permit when, after notice and hearing, it is shown that the operator or owner is not in compliance with the conditions of the permit or the requirements of this ordinance.
- 9.3 Any automobile graveyard, automobile recycling businesses/junkyard that has either been denied a license or has had a license revoked shall have three (3) months to clean up the site of said automobile graveyard/junkyard. If applicable, the property owner if different from the applicant will be held responsible for clean-up.

Section 10. Enforcement and Penalties

The Code Enforcement Officer (CEO) shall enforce this ordinance. If the CEO finds a violation of this ordinance, the CEO shall notify in writing the person responsible for it, specifying the nature of the violation, ordering whatever action may be necessary to correct it and giving the person not more than 30 calendar days to make the correction. A copy of the notice shall be given to the municipal officers.

If the violation is not corrected as ordered by the CEO, the CEO will notify the Town Council and they may initiate any and all actions and proceedings, legal or equitable that may be necessary or appropriate to enforce this ordinance. The CEO may grant one extension of not more than three (3) months for correction of the violation. If CEO determines, based upon all relevant circumstances, that the person responsible for the violation cannot reasonably be expected to make the correction with the time allowed due to seasonal weather conditions, personal physical illness, or financial hardship.

Any person who violates this ordinance shall be penalized in accordance with Title 30-1 MRSA 4452 including, without limitation, a penalty of \$100 to \$2500 per day for a specific violation, injunctive relief and reasonable attorney fees, expert witness fees and costs.

Section 11. Appeals

Any and all appeals under this ordinance may be taken within 30 days of the decision to the Somerset County Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

Section 12. Severability and Conflict

In the event that any provision of this ordinance is ruled to be invalid, the remaining provisions shall continue in full force and effect. In the event that any provision of this ordinance is found to be less restrictive than State law, the requirements of State law shall govern.

Section 13. Conflict and Other Laws

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or any other ordinance, regulation or statute, the provision imposing the greater restriction shall control. The newest version of this ordinance shall be the one that is enforced.

Section 14. Effective Date

This ordinance shall be effective upon adoption by Fairfield Town Council and may be amended by the Town Council in accordance with Town requirements for amending ordinances.

APPENDIX A – Definitions

Automobile Graveyard: "Automobile graveyard" as used in this ordinance shall mean a yard, field or other area used as a place of storage, other than temporary storage, to store three (3) or more unregistered or uninspected motor vehicles, as defined in Title 29-A M.R.S.A. section 101 subsection (42), or parts of the vehicles. Automobile graveyard includes an area used for automobile dismantling, salvage and recycling operations. For purposes of this ordinance, the term "unregistered or uninspected motor vehicle" shall mean not ready for use or presently useable as a motor vehicle, as opposed to incapable of being registered or inspected.

Junkyard: "Junkyard" as used in this chapter shall mean 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 and 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;
- d. Garbage dumps, waste dumps and sanitary fills

Automobile Recycling Business: "Automobile recycling business" means the business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling basic materials in the salvage vehicles, provided that 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.

Temporary Storage: The term "temporary storage" as used in this ordinance shall mean storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business.

APPENDIX B

General

Screening:

May be accomplished by natural or man-made objects, plantings or properly constructed fences, any of which must completely screen the items from ordinary view from any portion of any public way or abutting property throughout the entire calendar year. All screening must be located outside of the public way right-of-way limits.

Natural or man-made objects may be interpreted to be:

1. Hill, gullies, or embankments. Such man-made objects must be constructed to blend with the landscape with loaming and seeding or other treatment as may be necessary to establish a natural appearance
2. Buildings or other installations
3. Combinations of above

Plantings:

Trees, shrubs, or other vegetation of sufficient height, density and depth of planting or growth to completely screen the junkyard from ordinary view from any highway within the prescribed distance throughout the entire calendar year may be used for screening.

Fences:

Fences shall be so located and of sufficient height to completely screen the junkyard from ordinary view from any highway within the prescribed distances. It must be emphasized that height must be sufficient to accomplish the complete screening from ordinary view. All fences shall be well constructed and maintained. Only sound undamaged material, uniform in appearance, and erected in a workmanlike manner will be acceptable.

Suggested Materials:

Post:

Wood-sound, round or square. Preservative treatment is suggested. 4"X4" (square) or 4" minimum diameter (round).

Metal- Steel pipe or structural section steel either galvanized or base coated painted with rust inhibitive paint.

All posts to extend a minimum of 40 inches below ground level and to be set plumb.

Recommended post spacing 8' by 12'. End and corner posts to be diagonal braced to nearest adjacent post.

Stringers:

Minimum 2x4-Spruce or Fir, sound and free of excessive or weakening knots, and relatively free from warp or wain, preferably treated with a preservative stain/paint after cutting to length. Solidly spiked wood posts or bolted to metal posts. Three stringers for 6' to 8' foot height of fence, 4 stringers for 10' to 12' foot height. Over 12 foot in height would require a special design.

Steel pipe or structural section stringers may be used. There should be either galvanized or base coat paint with a rust inhibitive paint.

Facing Materials:

Facing materials may be wood, composite, sheet metal or plastic. Although new material will not be a requirement, bent, damaged, poor quality, scrap, discarded, mixed or conglomerate materials will not be acceptable.

Suggested materials would be sound, new or used boards; exterior grade hardboard; corrugated steel, aluminum, or plastic.

It is suggested that all fasters be galvanized nails, spikes, bolts, clamps, etc., and that all wood materials be treated with a preservative stain/paint (of uniform color) to preserve and prolong the life of the fence and to present a uniformity of appearance.

Since wind damage is a problem with any fence, bracing may be required and certainly would be essential on any fence over 8 feet in height. In board fence construction, relief of wind pressure may be achieved by placing the boarding alternatively on outside and inside of stringers with the spacing to be such that the edges overlap enough to present a solid appearance and effectively screen the junkyard from ordinary view.

AN ORDINANCE REGULATING THE LICENSING AND OPERATION OF BOTTLE CLUBS

SECTION 1 PURPOSE

The purpose of this ordinance is to protect the public health, safety and welfare of the citizens of the Town of Fairfield by regulating the licensing and operations of Bottle Clubs.

SECTION 2 LICENSE REQUIRED

No person, firm, or corporation shall keep, maintain, operate, lease, or otherwise furnish, either to its members and guests or to the general public, any premises, in the Town of Fairfield, for use as a bottle club, without first having obtained a license therefore to be issued by the Town Clerk after approval of the Town Council in accordance with this Article.

Definitions. Unless otherwise defined herein or in the text, all words used will have their common meaning.

(a) Bottle Club. "Bottle Club" means any establishment or premises which is operated on a regular basis in the following manner:

(a) no alcoholic beverages sold on the premises;

(b) all members, guests or members of the public must provide their own alcoholic beverages for consumption on the premises;

(c) fees or other charges are imposed on all members, guests or members of the public for admission to the premises; or for setups, i.e., liquid mixers, cups, ice and other items associated with the consumption of alcoholic beverages or for any other reason. For purposes of this ordinance, the term "bottle club" shall include, but not be limited to all such premises designated for municipal regulation under 28 M.R.S.A. Sec. 2 (1—A), se 4.

(b) Person. "Person" shall mean any individual, person, firm, corporation, association, partnership or organization.

(c) Officer. "Officer" shall mean any officer, director, stockholder, owners, manager, or person who either has a financial interest of any nature in a bottle club or directs any policy of a bottle club.

SECTION 3 LICENSE FEE

The annual license fee for a bottle club shall be \$25 payable to the Town of Fairfield and deposited with the Town Clerk upon the filing of an application for a license. In the event an application is denied or withdrawn, the license fee shall be refunded to the applicant.

SECTION 4 APPLICATION

All applications for a bottle club license shall be made in writing to the Municipal Officers and shall state:

- (1) the name of the applicant(s),
- (2) address of applicant (s)
- (3) whether applicant is a corporation, association or partnership
- (4) attested copies of articles of incorporation, association or documents of partnership
- (5) copies of bylaws
- (6) names and addresses of all principal officers
- (7) location and description of premises for which license is desired
- (8) whether applicant(s) has had a bottle club license elsewhere
- (9) whether applicant(s) has ever had a license denied or revoked; and,
- (10) any additional information that may be required by the municipal officers in the issuing of the license.

SECTION 5 INVESTIGATION OF APPLICANT

Upon the receipt of an application for a bottle club license, the municipal officers shall require that:

- (1) the Police Chief investigate the background of the applicant(s)
- (2) the Fire Chief inspect the location and premises to determine whether the bottle club meets proper fire and safety standards; and,

(3) the Health Officer inspect the premises of the bottle club to determine whether premises meet proper Health and Safety Standards. A written report of his findings shall be made to the Council by each officer.

No license shall be granted for any bottle club if it is found that the premises and buildings to be used do not fully comply with the ordinances and State Statutes pertaining to the protection of the Public Health and Safety.

SECTION 6 PUBLIC HEARING

Prior to the issuance of a license, the municipal officers shall hold a public hearing on any application for a bottle club. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the Town at least once, not more than 30 nor less than 7 days before the date set for the Hearing, and, said notice shall set forth the date, time, and place for the hearing at which time the testimony of the applicant(s) and that of any interested citizen shall be taken.

SECTION 7 LICENSE NOT TRANSFERRABLE

A separate license must be obtained for each bottle club, and each license shall authorize the operation of such an establishment only at the location described in such license and in conformity with all applicable ordinances and State Statutes. No license shall be sold or transferred to another person or to any other location. A license issued to a bottle club shall be displayed at all times in a conspicuous place on the premises.

SECTION 8 HOURS OF OPERATIONS

The premises used as a bottle club shall be open for business no earlier than 6:00 P.M. nor later than 1:00 A.M. the following morning at which time the club will be closed and vacated by members, guests, or other persons, other than regular employees. During the hours that a bottle club must remain closed, the use thereof by anyone of the premises or facilities of the bottle club for the drinking of alcoholic beverages is prohibited.

SECTION 9 MINORS PROHIBITED

No person under the age of twenty (20) years shall be permitted in any bottle club.

SECTION 10 LICENSE EXPIRATION

All licenses issued pursuant to this ordinance shall expire one year from the date of issue.

SECTION 11 SUSPENSION OR REVOCATION

A license to operate a bottle club, as provided for by this ordinance, may be denied, suspended or revoked by the Town Council for either violation of or suspended or failure to comply with any of the provisions of this ordinance, or with the provisions of any other applicable law or ordinance. Determination of the severity of the violation and whether or not a denial, suspension, or revocation is warranted, shall be made by the Town Council, after notice and hearing.

SECTION 12 APPEALS

An appeal from any final decision of the Town Council shall be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

SECTION 13 PENALTY

In addition to any action which the Town Council may take, violation of any provision of this ordinance shall be a civil violation and a fine not exceeding \$200.00 may be imposed. Each day that a violation continues will be treated as a separate offense. "All fines collected hereunder shall inure to and be recovered by the Town of Fairfield".

SECTION 14 SEPARABILITY

The invalidity of any provision of this ordinance shall not invalidate any other part.

SECTION 15 EFFECTIVE DATE

This ordinance shall become effective on passage.

Public Hearing: August 2, 1982 and August 18, 1982

Effective Date: August 18, 1982

Amended: June 15, 1988 – open at 12:00 p.m. on Saturday and Sunday

Amended: June 15, 1988 – changed annual fee from \$200 to \$25.00

COMMUNITY ANTENNA TELEVISION SYSTEM ORDINANCE

SECTION 1 PURPOSE

The purpose of this ordinance is to regulate the establishment and operation of a community antenna television system in the Town of Fairfield for the safety, convenience, and general welfare of the public.

SECTION 2 CITATION

This ordinance may be cited as the CATV ordinance.

SECTION 3 FRANCHISE REQUIRED

A person may not establish or operate a community antenna television system without obtaining a franchise from the Municipal Officers.

(1) Application. In order to obtain a franchise to establish or operate a community antenna television system, a person must first complete an application form furnished by the Municipal Officers. In addition to that required by the form, the applicant shall furnish the Municipal Officers at any time with any other information which they deem pertinent.

(2) Fee. When the application is filed with the Municipal Officers, the applicant shall pay a fee of \$25.00 which is not returnable.

(3) Notice and Hearing. On receipt of the fee and the application, the Municipal Officers shall hold a public hearing for its consideration. Before doing so, they shall, at the prepaid expense of the applicant, publish a notice in a newspaper having general circulation in the Municipality at least seven (7) days before the hearing advising the name and address of the applicant, the fact that he has applied for a community antenna television system franchise, and the time and place of the hearing.

At the hearing, the Municipal Officers may inquire as to the ability of the applicant to establish and operate a community antenna television system. They may also permit members of the public to ask pertinent questions through the Chairman of the Municipal Officers.

(4) Determination. Within thirty (30) days after the hearing, or such longer period of time as the Municipal Officers may require, the Municipal Officers shall determine whether the applicant is able to establish and operate a community antenna television system in a satisfactory manner and shall notify said applicant in writing of their decision. If deemed necessary by the Municipal Officers, they

may employ a consultant(s) familiar with CATV for the purpose of this paragraph, the costs and fees of which shall be reimbursed by the applicant forthwith upon presentation.

(5) Franchise Granted. The Municipal Officers may grant an exclusive franchise to the applicant who is best able to establish and operate a cable antenna television system, for not more than fifteen (ii) years, the terms of which must be specifically set forth in a contract between the applicant and the Town of Fairfield. The applicant may be required by the Municipal Officers to provide the municipality with a bond in the penal sum of \$1,000 conditioned on his performance of the contract.

SECTION 4 ESTABLISHMENT, OPERATIONS, MAINTENANCE AND REPAIR OF THE SYSTEM

As soon as the franchise contract has been executed, the licensee shall proceed to establish the system and put it into operation and maintain and repair as follows:

- (1) Prepare the necessary engineering surveys, plans and specifications in conformity with Federal, State and Local laws.
- (2) After plans and specifications which require it have been approved by State and local officials, prepare and execute pole contracts and pole line adaptation contracts to permit alteration of poles so as to accept the necessary cables.
- (3) Install the cables in the franchise area in accordance with a time schedule to be submitted by the licensee and approved by the Municipal Officers. Until the system is in operation in the franchise area, the licensee shall report his progress to the Municipal Officers at least every six (6) months. Should he fail to make all reasonable efforts to establish the system and put it into operation within approximately the period called for in the time schedule, the Municipal Officers shall, after notice and hearing cancel the franchise contract. In making this determination, the Municipal Officers shall take into consideration those matters beyond the control of the licensee including delays caused by any federal, state or local governmental agency, or by any public utility.
- (4) Operations, maintenance, repair, and service of the CATV system shall be as according to the Franchise Agreement between the licensee and the Municipal Officers.

SECTION 5 INSTALLATION OF SERVICE

The licensee shall install the system in a workmanship manner using only those materials and methods of installation which are accepted in the industry as being safe and suitable to the purpose for which they are designed.

SECTION 6 PUBLIC LIABILITY INSURANCE

The licensee may be required to carry all-risk Public Liability Insurance with limits of at least \$300,000.00 per person and \$300,000.00 per occurrence for bodily injury, and \$300,000.00 property damage and any other insurance and amounts required by the Municipal Officers. He shall furnish the Municipal Officers with, and keep current, a certificate of insurance which indicates compliance with this section.

SECTION 7 SCHEDULE OF RATES AND CHARGES

The Municipal Officers may require rate approval for all rates, charges, and services provided by the licensee.

SECTION 8 ANNUAL STATEMENT

Annually the licensee shall show the Municipal Officers an annual statement including a balance sheet and a profit and loss statement as of the end of the licensee's latest fiscal year and any other information or documentation which the Municipal Officers may require.

SECTION 9 FREE SERVICE TO MUNICIPALITY

The licensee shall provide free reception to municipal buildings including public and private schools within the service area.

SECTION 10 POWERS RESERVED TO MUNICIPAL OFFICERS

The Municipal Officers shall hereby have reserved to them the power, authority, and right to negotiate and require any other terms and conditions in a Franchise Agreement with any licensee as the Municipal Officers may deem reasonable and which are not inconsistent with any other section or part of this Ordinance, including but not limited to hold harmless provisions, rate approval, franchise fees, minimum production requirements, public access, assign-ability, termination and abandonment of service, use and reimbursement of consultants, monitoring the CATV system, and privacy.

SECTION 11 ENFORCEMENT

A person who violates this ordinance shall be punished by a fine of not more than \$100.00. The Municipal Officers may enforce this ordinance and any

franchise contract by seeking injunction relief as provided in Title 30 MRSA, section 2151 and any other civil, legal or equitable remedies. Each day any violation is continued is a separate offense.

Public Hearing: December 9, 1981

Adopted: December 9, 1981

TOWN OF FAIRFIELD CEMETERY ORDINANCE

INTRODUCTION

For the mutual protection of all lot purchasers (a person having burial rights to a lot purchased), to insure respect for the deceased and properties of others, and for the Cemeteries as a whole, the following rules and regulations have been adopted by the Town of Fairfield as the rules and regulations of all Town maintained Cemeteries and all lot purchasers and visitors within the Cemetery. All lots sold shall be subject to these rules and regulations and any future rules and regulations, amendments or alteration as may be adopted by the Town of Fairfield.

Fairfield cemeteries are operated by the Fairfield Public Works Department. The Public Works Director or designee shall have the authority to enforce all rules and regulations as set forth in this ordinance. For the purpose of this ordinance, Fairfield Public Works shall be referred to as Cemetery Management.

Rules and Regulations

- 1) All Cemeteries operated by the Town of Fairfield shall be open from dawn to dusk from May 1st to October 31st. Anyone found in the Cemeteries between dawn and dusk without permission of the Cemetery Management will be considered a trespasser. Trespassers shall be liable to prosecution. During the winter and early spring months, Cemeteries will be closed off because of weather elements causing poor road conditions.
- 2) Children under the age of thirteen are not allowed in cemeteries unless accompanied by an adult. Playing on lots and lawns as well as climbing on memorials or monuments is prohibited. We welcome your walking and enjoying the grounds of the cemetery.
- 3) Out of respect to the deceased and lot purchasers, dogs are not allowed in Cemeteries unless they are dogs assisting the handicapped.
- 4) No firearms allowed except at military funerals or by permission of the Cemetery Management.
- 5) The speed limit within the Cemetery is fifteen (15) miles per hour. Fast driving will not be permitted. Vehicles must not turn or back up on roads, but must be driven around the nearest circuit. Vehicles must not pass a funeral procession or a lot where services are being held.
- 6) Visitors must not park on the grass, pick flowers, or injure trees or shrubs and must, in all cases, respect the properties of the Cemetery.

- 7) Drivers and chauffeurs must remain by their vehicles and no loud conversation will be allowed during funeral services. Undertakers will be held responsible for the enforcement of this rule and for any improper conduct on the part of the drivers or chauffeurs while in the Cemetery.
- 8) Cemetery Management will not be held responsible for anything left on lots including, but not limited to, floral pieces, potted plants or urns and their contents. Items left on lots must be removed by October 1st or they will be removed and discarded. Cemetery Management reserves the right to remove any unsightly flowers, wreaths, or other items left on the graves at any time.
- 9) Solicitation in the Cemetery is prohibited.
- 10) Any person disturbing the peace by noise, fast driving, or any improper conduct, or who shall violate any of the rules will be compelled to leave the grounds and will be reported to the proper authorities.
- 11) The Town of Fairfield disclaims all responsibility for any and all damages or loss from causes, beyond its reasonable control and especially from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasion, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral.

Burial Lots

- 1) Persons desiring to purchase a burial lot should apply to the Cemetery Office, where a competent person will accompany the purchaser into the Cemetery where lots may be seen and a suitable selection made.
- 2) Persons desiring to place a monument on a lot must receive permission from Cemetery Management prior to the monument being placed. Cemetery Management is not liable for loss of grave space due to the placement of the monument, even though the monument was placed on the lot with the Cemetery Management's permission.
- 3) No conveyance or transfer of any lot, or interest therein shall be valid unless it shall have been approved in writing by the Town of Fairfield through its agents and has been recorded in its books. Burial lots shall be passed equally to blood descendants and legally adopted children of the original purchaser next in line unless designated by will. Burial rights may not be denied to blood descendants and legally adopted children of the original purchaser unless specifically denied by said purchaser.
- 4) Cemetery lots may not be sold by the purchaser to anyone other than the Town of Fairfield. The sale price of the lot shall be the original purchase price paid for said lot.

Interments

- 1) Interments shall not be made until the Cemetery Management has received the proper permits as may be required by law. The Town of Fairfield will not be responsible for the procurement of burial permits required by law.
- 2) No interment will be made until the grave space which is to be used has been paid in full. Also, the fee for the interment must be paid prior to burial unless a local funeral director is willing to accept financial responsibility for it. Any outstanding charges on the lot must be paid prior to interment.
- 3) Orders for interment should be given at least 48 hours before the time of interment. It is important that the purchaser or representative of a lot give personal attention to the location of the graves. An authorization for interment needs to be signed and given to Cemetery Management prior to interment. Unless prior notice is given to the Cemetery Management, it shall be understood that the licensed funeral director is duly authorized to make funeral arrangements as the agent of the family and/or the person having legal custody of the remains of the deceased and also the purchaser of the lot or interment space.
- 4) Funerals on arrival at the Cemetery shall be under the charge of the Cemetery Management or person appointed.
- 5) The cost of interment and disinterment can be obtained upon application to Cemetery Management. An overtime charge will be made for all burials that cannot be completed within regular hours.
- 6) To prevent settling of graves, concrete or steel vaults or cement liners are required for outside containers. Permanent containers are required to bury remains.
- 7) Should a burial be incorrectly sited, the Town of Fairfield reserves the right to correct this error by reburial.
- 8) Disinterment will not be made without signed authorization of next of kin and all proper permits required by law. All charges for disinterment must be prepaid in full. The utmost care will be made in making disinterment or removals. However, Cemetery Management and its personnel shall assume no liability if any casket, burial case or urn is damaged.
- 9) Winter burials will be made up to such time as excessive snow, frost or cemetery road conditions might prevent such burials. The Town of Fairfield reserves the right to make that decision.

Memorials

The purchaser (meaning a person having burial rights to a lot purchased) may wish to discuss memorial regulations with the Cemetery Management before selecting a memorial.

- 1) Curbing, corner posts, above grade, platforms, steps, buttresses, settees, or vases, except flower holders, will no longer be allowed or replaced from the date of this ordinance.
- 2) Designs, locations and materials for all monuments and markers or other structures must be submitted to the Cemetery Management for approval. This should be done before contracts are signed or orders given. The Town of Fairfield shall reserve the right to reject any plan or design for any memorial which by reason of size, design, inscription, finish or quality of stone is, in the opinion of the Town of Fairfield, unsuitable.
- 3) A concrete foundation is required for any above grade memorial. Arrangements for foundation are to be made by the lot purchaser with a memorial company. No above grade monument (memorial) shall be erected until the lot is paid in full.
- 4) Should any monument become unsightly, dilapidated or a menace to visitors or the Cemetery personnel, the Cemetery Management shall have the right to correct the condition or remove the same after the proper notification is made. If the purchaser or next of kin cannot be located, the Cemetery Management can remove the monument and not replace it. If this occurs, the Cemetery Management will place a marker on the lot indicating the names and dates of death of those interred on the lot.
- 5) While the Town of Fairfield will exercise all possible care to protect monuments and markers from damage, it disclaims any liability for damage or injury.

Flower and Decorative Policy

All plantings and decorations shall be subject to the general supervision of the Cemetery Management, and to such rules and regulations and conditions as the Cemetery Management may impose to insure the future welfare and appearance of the Cemetery.

- 1) All plantings must be approved by the Cemetery Management.
- 2) Annual plantings are allowed directly in front of the monument. These plantings shall not exceed one foot in width or the length of the monument. No plantings shall be made at or near any flush markers. These plantings interfere with the mowing, trimming and the opening of graves and will be removed without notice.

- 3) Artificial flowers are restricted to urns, baskets and vases. No artificial flowers shall be placed in the ground.
- 4) Any vase or urn which is deemed to be an obstacle to lawn mowing operations shall be moved or removed without notice. The use of jars, glass, china, or tin cans is strictly prohibited. These containers not only become unsightly, they are hazardous to Cemetery personnel. Also, the use of rocks, bricks or wires to hold down vases are prohibited for the same reasons. The use of washed, colored or crushed stone is prohibited.
- 5) The Town of Fairfield reserves the right to remove any plantings, containers or decorations in violation of the above said rules and to charge the purchaser for any expenses incurred, including the repair of the sod. Beginning October 1st of each year, the Cemetery personnel will clean up for the coming winter season. All flowers, real and artificial, vases, baskets, etc. will be picked up and disposed of. Lot purchasers should remove any item they wish to keep before this date. Urns may be left on the lot, but should be emptied and turned over to avoid breakage. Winter decorations are permitted from November 1 to April 30. After April 30, any decorations not picked up by the owner will be discarded by Cemetery personnel.

Trees & Shrubs

The Town of Fairfield maintains, to the best of its ability, all trees and shrubs planted by the Cemetery Management. However, it is not responsible for the care and trimming of any plantings on individual lots by the purchaser or his/her heirs.

- 1) From the date of this ordinance forward, the planting of evergreens, trees, and shrubs is strictly forbidden.
- 2) Any tree or shrub that is not maintained, becomes unsightly, encroaches on a neighboring lot, or obstructs the normal operation of the Cemetery shall be removed.
- 3) The Cemetery Management reserves the right to remove without notice any planting in violation of foregoing rules, conditions and limitations.

Perpetual Care

Perpetual Care shall include the mowing and trimming of grass at reasonable intervals, raking of fall leaves, and maintenance of graves. The general care assumed by The Town of Fairfield shall in no case or instance mean the maintenance, repair or replacement of any monument, memorial tomb, mausoleum or marker placed or erected on Cemetery lots.

Future Changes to the Ordinance

The Town of Fairfield reserves the right to change, amend, alter, repeal, rescind or add to these rules and regulations or to adopt any new rule or regulation with respect to the Cemeteries or anything pertaining thereto.

Adoption

The above Ordinance has been adopted by the Fairfield Town Council on this _____day of _____, 2007.

Richard Spear, Chairman

Franklin Bouchard, Vice-Chair

Edward Stevens, Jr., Secretary

William Towne

P. Michael Slaney

Attest: _____
Tracey L. Stevens, Town Clerk

DISBURSEMENT WARRANT ORDINANCE

SECTION 1 PURPOSE

The purpose of this ordinance is to provide an alternative to the statutory procedure for approval of warrants authorizing the treasurer to disburse money.

SECTION 2 AUTHORITY

This ordinance is enacted pursuant to 30-A M.R.S.A. 3001 and 5603(2)(A).

SECTION 3 PROCEDURE FOR APPROVAL

The treasurer may disburse money only on the authority of a warrant drawn for the purpose, either (a) affirmatively voted and signed by a majority of the municipal officers at a duly called public meeting, (b) seen and signed by a majority of them acting individually and separately, or (c) signed as otherwise provided by law for the disbursement of employees' wages and benefits and payment of municipal education costs.

Adopted May 21, 1996 By Town Council

Attested: Cynthia P. Blair, Town Clerk

Emergency Management Ordinance for the Town of Fairfield

Section 1

1. **Short Title:** This ordinance shall be known and may be cited and referred to as the “Emergency Management Ordinance for the Town of Fairfield”, authorized under Title 37-B M.R.S.A., Sec 782.
2. **Appointment, Term and Removal:** The Fairfield Town Council shall appoint the EMD. This appointment shall be annual and shall take place at the time the Council sets. The Council may remove the EMD for cause.
3. **Oath of Office:** Once appointed, the EMD shall take an oath of office before assuming any duties, pursuant to Title-B M.R.S.A., Sec 2526.
4. **Authority:** Once sworn, the EMD shall have that authority afforded the position under Title 37-B Chapter 13, Maine Emergency Management Agency and this ordinance.

5. Duties and Responsibilities:

- A. Control and direct emergency training activities of the Emergency Management forces for the Town.
- B. Maintain a liaison with other Municipal, County, State and Federal Emergency Management Agencies.

- C. Maintain up-to-date Emergency Action Plan for the Town of Fairfield to include resources from all Town departments and private industry.
- D. When appropriate, request that the Town Manager or designee, or in their absence the Council Chair, declare a State of Emergency for the Town of Fairfield.
- E. Prepare, under the direction and control of the Town Manager, for the consideration of the Town Council, such policies and operating procedures as may be deemed necessary for the administration and operational requirements of the Town. These policies and procedures will be effective upon approval of the Town Council. The Town Council may amend policies and procedures at their discretion.
- F. Notwithstanding any provision of this Ordinance to the contrary, the Director, with consultation of the Town Manager or designee, may procure by purchase or lease, such goods and services as are deemed necessary for the Town's emergency response effort. This emergency procurement of goods or services may be made in the open market for immediate delivery or furnishing without filing a requisition or estimate and without advertisement. A full written account of all emergency procurements made during an emergency, to include supplies, equipment, or services, shall be submitted by the EMD to the Town Manager and Town Council within 30 days of the conclusion of the emergency.

Section 2 -Definitions

Disaster: The occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including, but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill or other hazardous

material, or other water contamination requiring emergency action to avert danger or damage, epidemic, extreme public health emergency, blight, drought, infestation, explosion, riot or hostile terrorist act.

Emergency Management: The coordination and implementation of an organized effort to prepare for, respond to, recover from a disaster and/or alleviate the conditions that may lead to a disaster.

Emergency Management Director: (EMD) shall mean the appointed Town official responsible for the four phases of Emergency Management “preparedness, response, recovery and mitigation” and for liaison with the Somerset County Emergency Management Agency.

Emergency Management Forces: Shall mean the employees, equipment and facilities of all the Town of Fairfield’s departments and agencies, and in addition shall also include all volunteer personnel, equipment and facilities contributed by, or obtained from volunteer persons and/or agencies.

Section 3 -Emergency Proclamation; Town Managers Powers:

The Town Council is responsible for the safety and well being of the citizens of Fairfield and in protecting their property. Although the Town Council is in session only when assembled in a Council Meeting, the Town Manager shall have the authority to proclaim, after consultation with available members of the Town Council, that a state of emergency exists under the conditions specified in Title 37-B M.R.S.A., Sec. 742. The proclamation shall declare that an emergency exists in a specified section or throughout the Town. A copy of such proclamation shall be filed within twenty-four (24) hours with the Town Clerk. In the event that consultation with the majority of the Town Council would result in substantial delay in an effective response in alleviating or preventing an emergency or disaster, the Town Manager is authorized to take whatever actions are

necessary to prevent the loss of life and property in the Town. If the Town Manager or designee are absent or unavailable, then the appointed Emergency Management Director for the Town of Fairfield shall declare an emergency after consultation with a majority of the Town Council. In the event that majority of the Town Council is not available for consultation, then the Emergency Management Director shall be authorized to take whatever actions are necessary to prevent the loss of life and property in the Town.

Section 4 -Town Managers Duties and Emergency Powers

During any emergency or disaster or the imminent threat of an emergency or disaster, the Town Manager or designee may promulgate temporary regulations in order to preserve critical resources within the purpose of this section. Such regulations may include, but shall not be limited to the following:

- A. Regulations prohibiting or restricting the movement of vehicles and/or persons from areas within or without the Town.
- B. Such other regulations necessary to preserve public peace, health and safety.
- C. The power to execute contracts for emergency construction or repair of public improvements, when the delay of advertising and public bidding might cause serious loss or injury to the Town.
- D. The power to purchase or lease goods and services that the Emergency Management Director deems necessary to the Town's emergency response, or for the repair of Town facilities, or both, upon following the procedures of SECTION 1-(F).

E. The power to lease real property, or structures, or both, that the Emergency Management Director deems necessary for the continued operation of Town government.

F. The power to establish temporary curfews when necessary to protect public health, safety and welfare.

Nothing in this section shall be construed to limit the authority or responsibility of any department to proceed under powers and authority granted to them by State Statute or Town ordinance.

Section 4-1

A. The Town Manager or Director shall be authorized to request aid and/or assistance from Somerset County and/or the State or any other political subdivision of the State and shall render assistance to other areas or political subdivisions under provisions of Title 37-B M.R.S.A.

B. During the existence of an emergency, the powers, functions and duties of the emergency organization of this Town shall be those prescribed by State law, ordinance and resolutions of this Town and by the Fairfield Emergency Management Plan, as approved by the Town Council.

C. The duties and powers prescribed by this ordinance shall terminate at the end of the declared emergency.

Section 5 – Emergency Operational Plans

The Emergency Management Director for the Town of Fairfield will prepare an emergency operations plan for the Town, which shall be

submitted to the Town Council for approval. Amendments to the plan will be submitted to the Town Council for approval.

It shall be the responsibility of all municipal departments and agencies to perform the functions assigned and to maintain their portion of the plan in a current state of readiness. The plan shall be reviewed annually by the Town Manager in conjunction with all Town department heads and the Emergency Management Director.

Section 6 – No Municipal or Private Liability

Immunity from liability shall be set forth in Title 37-B M.R.S.A., Sec. 795 and Sec. 822 of Maine law.

Section 7 -Compensation for Injuries

All members of the Fairfield Emergency Management Forces shall be deemed to be employees of the State of Maine when engaged in training for or on duty, and shall have the rights of State employees under the Workers' Compensation Act and as specified in Title 37-B M.R.S.A., Sec. 823.

Section 8 – Right-of-way Penalties

Personnel and equipment required to respond to an emergency or disaster shall have the right-of-way over all public ways and roads and anyone failing to grant said right-of-way shall suffer penalties as specified under Title 37-B M.R.S.A., Sec. 828.

Section 9 – Violation of Regulations

It shall be unlawful for any person to violate any of the provisions of this Ordinance or of the regulations or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the EMA Forces as herein defined in carrying out the

provisions of this Ordinance or any regulation of plan issued pursuant to the same.

Section 10 –Severability Clause

Should any section or part thereof be declared invalid by the court, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

This ordinance is enacted this 13th day of September, 2006 by the Fairfield Town Council.

Richard Spear, Chairman

Philip Roy, Jr., Vice-Chair

Edward Stevens, Jr., Secretary

Franklin Bouchard

William Towne

A True Copy Attest: _____
Tracey L. Stevens, Town Clerk

Town of Fairfield and Town of Benton Fire Prevention and Protection Ordinance

**Amended:
December 12, 2007
December 10, 2008
April 22, 2015
June 22, 2016
December 27, 2017**

Article 1. Fire Chiefs Powers and Duties in General

Section 1-1. Article 1 Appointment of the Fire Chief

1-1.1 The Fire Chief shall be appointed by the Town Manger with approval of the Town Council.

Cross Reference (s) Maine Law 30-A § 3153 & Town Charter

Section 1-2. Powers of the Fire Chief

1-2.1 The powers of the chief of the fire department shall be those necessary and proper to execute the duties of the department and its office in a manner providing for the greatest safety to life and property.

Section 1-3. Duties of the Fire Chief in General

1-3.1 Superintend the overall duties of the fire department.

1-3.2 Establish departmental rules and regulations.

1-3.3 Make annual reports to the Town Council and the citizens of the Town of Fairfield.

1-3.4 Recommend ordinances and ordinance amendments with a view toward improving the protection of life and property.

1-3.5 Perform such other duties as may be prescribed by the Town Manager or law.

Cross Reference (s) Maine Law 30-A § 3153

Section 1-4. Authority of the Fire Chief to detail members of the department

1-4.1 The chief of the fire department may detail such members of the department and inspectors as necessary.

1-4.2 The chief of the department may delegate to members of the fire department any of his/her powers he/she feels necessary in the pursuit of safety to life and property and enforcement of this ordinance or those allowed by Maine Law.

Article 2. Fire Alarms and Sprinkler Systems

Section 2 –1. False Alarms

2-1.1 No person shall willfully or maliciously give or cause to be given a false alarm of fire by ringing an alarm bell or pulling an alarm box of any alarm system.

2-1.2 For the purpose of this section, a "false alarm" is defined as a fire department response to an alarm received from a sprinkler or alarm system activated for reasons other than heat, smoke or fire. A "false alarm" includes alarms received from a sprinkler or alarm system deliberately activated when a response is not required and alarms received from malfunctioning systems.

2-1.3 The presumption shall be that an alarm is a false alarm unless the user demonstrates otherwise to the satisfaction of the fire officer in charge. (see SEC. 6-1)

2-1.4 All sprinkler systems, including planning, installation and inspection of such systems or part thereof, shall follow Maine Law: *Title 32§1371 thru 1380*.

2-1.5 All exterior fire department connections leading to a sprinkler or standpipe system shall be painted RED in color and shall be kept clear of any obstructions.

2-1.6 Access Box. All buildings with fire alarms or sprinklers systems and all multi – occupancy buildings shall have an approved access box installed in a place attached to the building approved by the Fire Chief

Article 2-A. Existing Sprinkler Systems in Existing Buildings

2.A.1 Permanent shutdown; NFPA 101 2009 ed. States; "No existing life safety feature shall be removed or reduced where such feature is a requirement for new construction"

Permanent shut down of any sprinkler MUST be approved by, the State Fire Marshal, the Fire Chief and the building owners Insurance carrier and follow The State Fire Marshals guidelines.

2.A.2 Temporary / Seasonal Shut Down of Sprinkler Systems;

For Temporary or Seasonal Shut Down of a Sprinkler the following guideline must be used.

1. Obtain a written acknowledgment from the buildings insurance carrier
2. Obtain a written acknowledgment form the fire chief
3. Make acknowledgment to your water district if required...use letter from fire chief
4. Notify the alarm company if applicable
5. Make sure the building remains locked and unoccupied during the shutdown. This includes keeping out work-crews or other persons...(It is acceptable for the owner or owner representative to do an occasional walk-through inspection).
6. Have a licensed fire sprinkler contractor or inspector shut the system down and prepares it for inactivity
7. At the time of reactivation have a licensed fire sprinkler or inspector reactive the system and do the required through annual inspection at that time. Contact the Fire Department to notify them the system has been activated.

Article 3 Fire Hydrants

Section 3-1 Obstruction of Fire Hydrants

3-1.1 No person shall park or cause to be parked any vehicle for any purpose within five (5) feet of any fire hydrant.

Exception: Fire apparatus in the pursuit of their duties at an emergency, training or testing of said fire hydrant.

3-1.2 No person shall obstruct, or cause to be obstructed or place any snow within five (5) feet of any fire hydrant.

Exception: Town Public Works Department or State of Maine Department of Transportation in their normal removal of snow from public streets and ways.

Section 3-2 Use of Fire Hydrants

3-2.1 Any person, business, or corporation using any municipal (KWD) fire hydrant for any purpose, such as but not limited to: filling swimming pools, filling of construction vehicles or agricultural use, shall contact the fire department before such use and then when such use is discontinued. This shall be done each for day of use. Use of any municipal fire hydrant is at the discretion of the Kennebec Water District, Waterville Maine

3-2.2 No person, business or corporation shall use any town owned Dry Hydrant for any purpose without permission of the fire department.

Article 4 Life Safety and Fire Prevention

Section 4-1 N.F.P.A. 101 Lifesafety Code and N.F.P.A. 1 Fire Code:

The Town of Fairfield and the Town of Benton hereby adopts the National Fire Protection Association code Lifesafety Code 101 (2009 edition) and all referenced codes and the National Fire Protection Association Fire Code 1 (NFPA 1) (2009 edition) and all referenced codes, and this Fire Prevention & Protection Ordinance. These codes and this ordinance shall be updated from time to time to stay in line with changes with the existing edition of the codes or when the State Fire Marshal's office adopts a more recent edition of the codes

The authority to enforce such codes and ordinances shall be given to the Fire Chief or his delegate and the Code Enforcement Officer of each Municipality

State of Maine Statues Title 25 Ch. 313 Sec 2360

4-1.1 For the purpose of regulating the construction, alteration, addition, repair, removal, demolition, use, occupancy, maintenance and inspection of all Commercial structures and Apartment buildings with three or more units, within the Town of Fairfield and the Town of Benton the above National Fire Protection Association Codes shall be used.

4-1.2 The Fire Chief or his delegate shall perform the duties of Fire Code Inspector under the State of Maine Statutes 25§2351 – 2361 and 30A Subchapter V§ 4452.

4-1.3 Any owner or occupant failing to comply with the order of the Inspector shall be punished by a fine of not less than \$25.00 for each day's neglect, in accordance with State of Maine Statute 25§2360.

Section 4-2 Compliance Permit

4-2.1 As of the adoption date of this ordinance, no new construction, modification or change of occupancy of existing Commercial buildings or Apartment buildings with three or more units may be occupied in whole or in part in violation of the provisions of this ordinance, NFPA Life Safety Code or NFPA Fire Code, unless the following conditions exist:

- A) A plan of correction has been approved,
- B) No serious life safety hazards exist, as judged by the Inspector,
- C) A permit has been issued by the Code Enforcement Officer and the Fire Chief or his Delegate. *(CEO in this case would only be for the Town of Fairfield)*

Section 4-3 Truss Construction

4-3.1 All new construction and existing renovated buildings containing roof or floor truss constructed supports, made from any common construction material or common construction style shall be marked as described below, as having such construction.

Exception: Residential Construction

Sample Marking:



The triangle shall be not less than eight (8) inches long and six (6) inches high. This marker shall be placed no further than eighteen (18) inches to the right or left, and at a height of not less than sixty (60) nor more than seventy-two (72) inches of all pedestrian entrance points. Said triangle shall have a background color of white. A letter "T" shall be placed within the triangle and the color of black of block type font.

4-3.2 Cost of construction, placement and materiel choice of said triangle shall be the burden of the building owner.

Article 5 Fire Lanes

Section 5-1 Purpose

5-1.1 Fire Lanes are established for the purpose of promoting public health, safety and welfare by recognizing that there exist, and will in the future exist, buildings and other areas within the town(s) to which the public will be invited, served or housed. Those buildings or other areas must be provided prompt, adequate emergency services including access by firefighters and firefighting equipment and/or other emergency personnel and equipment in order to accomplish said purpose and affects the saving of life and property in emergency situations.

Section 5-2 Applicability

5-2.1 The provisions of this article, in order to accomplish the stated purpose shall be applicable those buildings defined in N.F.P.A 1 Fire Code 2009 ed., AND Non-residential and Residential Subdivisions as described in the Town Land Use Ordinance, all schools whether public or private, hospitals, convalescent homes, rest homes, nursing homes and group homes with six (6) or more persons and places of public assembly used for gathering together fifty (50) or more persons.

Section 5-3 Maintenance and Identification of Fire Lanes

5-3.1 Fire lanes shall be marked with posted signs or marked curbs, sidewalks or other traffic surfaces that have the words "FIRE LANE – NO PARKING" painted in contrasting colors.

Article 6 Billing for Services

Section 6-1 Billing Authorized

6.1.1

Any person who shall receive emergency medical or fire department services requested by such person or on behalf of such person by any other person acting in good faith and in the interest of the health or safety of such service, recipient shall pay to the Town of Fairfield a fee for services in accordance with Section 6.1.2 of this ordinance, such section to be amended from time to time by majority vote of the Fairfield Town Council.

6.1.2

Billable costs associated with Personnel and Apparatus:

Fire Permit Violations when summoned by Maine Forestry Service;

Hazardous Materials Response;

Response to Vehicle Crash and/or Vehicle Fires;

Response to false Fire and/or Sprinkler Alarms; after 2 incidents in a 12 month period.

Billing Rates & Fees:

Shall be set by the Town Council annually, located in Town of Fairfield Fee Schedule.

6.1.4

Cost Recovery:

The Town shall use a third party billing agency for claims made to insurance companies as provided by law and shall add other type incidents as allowed by law.

No Fairfield or Benton resident shall be responsible for any denied or reduced amount of payment for any claim made on behalf of the Towns.

6.1.5

Revenues:

All revenues received shall be placed in the Fire Rescue Reserve Account to the accounts limit of \$75,000.00 as set by the Town Council. Any amount received above this limit shall be placed in Town of Fairfield General Fund or as directed by the Fairfield Town Council.

Article 7- Fire Permits

Section 7-1 Purpose

Maine law Title 12 § 9325 Open Burning has (2) provisions;

1. Permissible Outdoor Burning *with* a permit and;
2. Permissible Outdoor Burning *without* a permit

This ordinance is for the purpose of *Residential Recreational use of Grills, Fireplaces and Fire Pits as Defined only.*

Section 7-2 Definitions

A. Grills:

An Appliance usually heated by Propane or Charcoal Bisques manufactured of metal used for cooking food products.

B. Fireplaces:

1. A manufactured device for the purpose of burning wood products for the purpose of having an open flame (usually manufactured from some type of metal and may be enclosed).

2. A device made from brick or stone with mortared joints for the purpose of burning wood or charcoal. This device may or may not be used for cooking food and is usually not fully enclosed.

C. Fire Pit:

1. A pit (8-10 inches deep) surrounded by stones, bricks or cement block, without mortared joints

2. A pit (8-10 inches deep) surrounded by some type of metal barrier such as an open center tire rim.

3. The bottom of a metal drum with sides of 10-12 inches in height.

Section 7-3 Issuing of Fire Permits for recreational use

A. For the Recreational use of *Grills* and *Fireplaces* as defined above *NO* Fire Permit is necessary for their use.

B. For the use of *Fire Pits* as defined above a Fire Permit will not be necessary if the following conditions are met:

1. A pit cleared to exposed soil, 8-10 inches in depth and surrounded by stones, brick or cement block at least 6 inches in height.

2. The pit can be no larger than 30 inches across measured from the inside of the stone, brick or cement block.

3. Tire Rims; A pit cleared to exposed soil, 8-10 inches in depth, the rim shall be no larger than 30 inches across.

4. Metal Drum – an area cleared to exposed soil where the drum will sit. The drum should have a height of no more than 12 inches and placed atop bricks or cement blocks. – Large tanks such as used oil tanks must be approved by the fire chief. A permit may or may not be necessary depending on its use.
5. If a response from the fire department finds that these conditions have not been met, the property owner may be subject to Section 7-6 Non-Compliance with State Statues for Outdoor Burning

Section 7-4 Conditions for use of Outside Fireplaces and Fire Pits as defined above

- A. Only natural wood products may be burned, no paper, cardboard or other prohibited products.
- B. It is very dangerous to burn Pressure Treated Wood products as they give off Toxic Gasses and should not be burned
- C. Wood products *must* fit within the confined of the device.
- D. Bon Fires – any fire larger than 30 inches in diameter *WILL* require a Fire Permit

Section 7-5 Outside burning other than defined above

- A. Other than as defined as above ALL outside burning requires a Fire Permit
- B. Fire Permits maybe obtain at the Fairfield Fire Station after 9 am – earlier if it is raining or there is snow covered ground. At no time permits will be issued before 7 am. There is no fee.
- C. Fire Permits may be obtained from the State Forest Service online – There is a fee for this service.
- D. Fire permits issued by the Fairfield Benton Emergency Services Department shall be issued for one day only. As long as the fire is attended there is no expiration of time the fire needs to be extinguished, however the if the fire is found to be unattended the person responsible for signing the permit shall be found in violation of the state outdoor burning laws.
- E. Fire permits issued by the Maine Forest Service shall follow the regulations found on that permit.

Section 7-6 Non-compliance with State Statues for Outdoor Burning

The following offences are subject to the person signing the permit being issued a summons and fine.

- A. Burning without a permit when necessary
- B. Burning Non-permitted material
- C. Burning beyond the scope of an issued permit
- D. Burning beyond the scope of this ordinance

Maine Statutes permit a responding fire department to seek reimbursement of their cost for suppression if a summons is issued by law enforcement personnel.

This cost may include but is not limited to:

- Hourly rate for fire apparatus and equipment
- Hourly rate for any responding personnel
- Lost or damaged equipment
- Cost for mutual aid departments responding if applicable

ARTICLE 8. OUTDOOR WOOD BOILERS, INDOOR WOODSTOVES and FIREPLACES

Section 8-1 Purpose

Installation, Use and Control of Emissions from Outdoor Wood Boilers are regulated by the Maine Department of Environmental Protection.

This ordinance in no way is meant to regulate the Installation, Distribution, or Sales of outdoor wood boilers.

Installation of Indoor Woodstoves and Fireplaces are regulated by the State of Maine Fire Marshal and/or Local Code Officials. This ordinance in no way is meant to regulate the Distribution or Sales of Indoor Woodstoves or Factory – Built Fireplaces

The Town of Fairfield and the Town of Benton, set the following regulations pertaining to complaints of prohibited fuels used in outside wood boilers and indoor Woodstoves and Fireplaces **MANUFACTURED FOR THE PURPOSE OF BURNING SOLID FUELS**. Adopted pursuant to municipal home rule ordinance authority and Title 30-A MRSA, Section 3001.

Section 8-2 Definitions:

As defined by DEP Control of Emissions from Outdoor Wood Boilers Chp.150

Clean Wood: “Clean wood” means wood that has no paint, stain, or other types of coatings and wood that has not been treated with, including but not limited to, copper chromium arsenate, creosote or pentachlorophenol.

Outdoor Wood Boiler: “Outdoor wood boiler” (also known as outdoor wood-fired hydronic heater, water stove or outdoor furnace) means a fuel burning device designed to (1) burn wood or other approved solid fuels; (2) that the manufacturer specifies for outdoor installation in structures not normally occupied by humans (e.g., garages); and

(3) heats building space and / or water via the distribution, typically through pipes, of a fluids heated in the device, typically water or a water/antifreeze mixture.

Section 8-2-A as defined by N.F.P.A 211

Fireplace: A hearth, fire chamber, or similarly prepared area and a chimney
MANUFACTURED FOR THE PURPOSE OF BURNING SOLID FUELS.

Factory - Built Fireplace: **(SOLID FUEL-BURNING DEVICE)** fireplace composed of listed, factory built components assembled in accordance with the terms of the listings.

Masonry Fireplace: **(SOLID FUEL-BURNING DEVICE)** A hearth and fire chamber of solid masonry units, such as brick, stones, listed masonry units or reinforced concrete, provided with a chimney.

Woodstove (Solid Fuel-Burning Appliance): A chimney connected device that burns solid fuel designed for the purpose of heating, cooking or both.

Solid Fuel: Wood, coal, and other similar organic materials and any combination of them.

Nuisance: "Nuisance" means emissions of air contaminates to the outdoor atmosphere of such quality, characteristic or duration that may be injurious to human, plant or animal life or to property or that unreasonably interferes with the comfortable enjoyment of life or property.

Section 8-3 Nuisance Conditions

A). No person shall operate an outdoor wood boiler, Indoor Woodstove or Fireplace **AS DEFINED ABOVE** using prohibited fuels.

(Any material other than clean wood, coal or other organic materials as defined above. Fuel oil or propane may be used for multi-fuel boilers where recommend by the manufacture).

For a list of prohibited materials contact Maine Department of Environmental Protection or visit their web site at www.maine.gov/dep/air/woodsmoke/woodcombustion.htm

B). Those persons found to be in violation of this ordinance shall be subject to the following:

First Offence: Warning

Second Offence: \$50.00 fine and in the case of Outdoor Boilers a report made to the Maine Department of Environmental Protection

Section 9 Building Inspections

The Town of Fairfield and the Town of Benton hereby adopts the National Fire Protection Association Lifesafety Code 101 and all referenced codes and the National Fire Protections Association Fire Code (NFAP 1) and all referenced codes, and this Fire Prevention & Protection Ordinance. These codes and this ordinance shall be updated from time to time to stay in line with changes with the existing edition of the codes or when the State Fire Marshal's office adopts a more recent edition of the codes.

The authority to enforce such codes and ordinance shall be given to the Fire Chief and the Code Enforcement Officer of each Municipality.

State of Maine Statues Title 25 Ch. 313 sec 2360 and Title 30-A Ch. 141 sec 3001

9-1.1 For the purpose of regulating the construction, alteration, addition, repair, removal, demolition, use , occupancy, maintenance and inspection of all occupied structures with the Town of Fairfield and the Town of Benton the above National Fire Protection Association Codes shall be used.

9-1.2 The Fire Chief or his/her delegate shall perform the duties of Fire Code Inspector under the *State of Maine Statues 25§2351-2361 and 30A Subchapter V§ 4452*.

9-1.3 Any owner or occupant failing to comply with the order of the Inspector shall be punished by a fine of less than \$25.00 for each day's neglect, in accordance with *State of Maine Statue Title 25§2360*.

Section 9-2 Compliance Permit

9-2.1 As of the adoption date of this ordinance, no new construction, modification or change of occupancy of existing Occupied buildings may be occupied in whole or part in violation of the provisions of this ordinance, NFPA Lifesafety Code 101 or NFPA 1, unless the following condition exist:

- A) A plan of correction has been approved,
- B) No serious lifesafety hazards exist, as judged by the Inspector,
- C) A permit has been issued by the Code Enforcement Officer and the Fire Chief or his Delegate.

Section 9-3 Fire Code Appeals Board

9-3.1 ESTABLISHMENT: A board of appeals shall be established for the purpose of hearing and acting upon appeals of a decision made by the Authority Having Jurisdiction regarding established Fire and Lifesafety Codes.

- A) This board shall be; The Town of Fairfield and/or Town of Benton's established LAND USE BOARD OF APPEALS.
- B) Appointment and Terms of appointments to this board shall follow those rules now established by each municipality.
- C) Governing rules shall be those established by the board or municipality except those established by this document.

9-3.2 DUTIES:

- A) The board of Appeals shall provide for a reasonable interpretation of the provisions of the Fire and Lifesafety Codes and rule on appeals from decisions of the AHJ.
- B) The ruling of the Board of Appeals shall ensure that the intent of the code(s) is compiled with and public safety is secured.
- C) The Board shall be permitted to grant alternatives or modifications within the limits established by each code.
- D) The Board shall not have the authority to waive the requirements found in any code.
- E) Rulings of the Board shall not be precedence setting.

9-3.3 MEETINGS:

- A) The Board shall meet as necessary giving five days' notice, but in no case shall it fail to meet on an appeal within 30 calendar days of the filing of notice of appeal.
- B) All meetings / hearings of the Board shall be open to the public. Public notice of meetings / hearings shall follow established rules of the municipality.
- C) The Board shall keep minutes of its proceedings showing the vote of each member on every question, or if the member is absent or fails to vote, indication such actions.
- D) The Board shall also keep records of its examinations and other official actions.
- E) Minutes and records of the Board shall be public record.

9-3.4 MEANS OF APPEALS:

1. Any person shall be permitted to appeal a decision of the AHJ to the Board of Appeals when it is claimed that any one or more of the following conditions exist:
 - A) The true intent of the code(s) or ordinance(s) has been incorrectly interpreted.
 - B) The provisions of the codes or ordinances do not fully apply.
 - C) A decision is unreasonable or arbitrary as it applies to alternatives or new materials.
2. An appeal shall be submitted to the AHJ in writing within 30 calendar days of the notification of decision or violation outlining the codes(s) or ordinance from which relief is sought and the remedy proposed.

3. All documentation supporting an appeal shall be submitted to the AHJ. No additional information should be submitted to review by the Board without the information submitted to the AHJ for their review prior to the hearing date. Additional information submitted after the filing date of the appeal to the Board and AHJ should be made available to the Board and AHJ in a timeframe that permits adequate review before the hearing date.

9-3.5 DEFINITIONS:

Authority Having Jurisdiction (AHJ): The Fire Chief or his/her delegate

Code: The National Fire Protection Association (NFPA); 101 Lifesafety and NFPA 1 Fire Code and those codes referenced by these.

Ordinance: The Town of Fairfield **and** / or The Town of Benton's Fire Prevention and Protection Ordinance.

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF FAIRFIELD, MAINE

ENACTED: February, 9 2005
DATE

CERTIFIED BY: certified
NAME
TOWN CLERK
TITLE

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE 1 - PURPOSE AND ESTABLISHMENT

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

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

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

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

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

The areas of special flood hazard, Zone A and AE, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Fairfield, Maine, Somerset County," dated February 17, 1988 with accompanying "Flood Insurance Rate Map" February 17, 1988, which are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE 11 - PERMIT REQUIRED

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

ARTICLE III - APPLICATION FOR PERMIT

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

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

- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

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

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zone AE, from data contained in the "Flood Insurance Study - Town of Fairfield, Maine," as described in Article I, or,
 - b. in Zone A:
 - (1) from any base flood evaluation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K and VIII.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be flood-proofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer, or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Flood proofing Certificate (FEMA Form 81-65, 08/99, as amended), to verify that the flood proofing methods for any non-residential structures will meet the flood proofing criteria of Article III.H.4; Article VI.G.; and other applicable standards in Article VI;

2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 3. a certified statement that bridges will meet the standards of Article VI.M;
 4. a certified statement that containment walls will meet the standards of Article VI.N;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$10.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article Vi (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 1. the base flood data contained in the "Flood Insurance Study - Town of Fairfield, Maine." as described in Article I;
 2. in special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,
 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
 - 1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
 - 2. A Flood Hazard Development Permit for Flood proofing of Non-Residential Structures that are new construction or a substantially improved non-residential structures that are not being elevated but that meet the flood proofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Flood proofing Certificate signed by a registered professional engineer or architect; or,
 - 3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
- G. Maintain , as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Flood proofing Certificates, Certificates of Compliance and certification of design standards required under the provisions of Articles III, VI, and VII of this Ordinance

ARTICLE VI - DEVELOPMENT STANDARDS

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

- A. **All Development** - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. use construction materials that are resistant to flood damage;
 3. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article VIII.D.
- G. **Non Residential** - New Construction or substantial improvement of any non-residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be flood proofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and ,

- c. be certified by a registered professional engineer or architect that the flood proofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is flood proofed.
 - 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article VIII.D., or
 - a. together with attendant utility and sanitary facilities meet the flood proofing standards of Article VI.G.1.
- H. **Manufactured Homes** - New or substantially improved manufactured homes located within:
 - 1. Zone AE shall:
 - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two (2) additional ties per side at intermediate points (manufactured homes less than fifty (50) feet long require one additional tie per side); or by
 - (2) frame ties at each corner of the home, plus five (5) additional ties along each side at intermediate points (manufactured homes less than fifty (50) feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.
 - 2. Zone 1 shall:
 - a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.b.; Article V.B.; or Article VIII.D.; and
 - b. meet the anchoring requirements of Article VI.H.1.c.
- I. **Recreational Vehicles** - recreational vehicles located within:
 - 1. Zone AE shall either:

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

J. **Accessory Structures** - Accessory Structures, as defined in Article XIII, located within Zones AE and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

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

K. **Floodways** -

- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2. In Zones AE and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

- b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study-Guidelines and Specifications for Study Contractors, (FEMA 37/January 1995, as amended).
 - 3. In Zones AE and A riverine areas for which no regulatory floodway is designate, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
- L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
 - 1. Enclosed areas are not "basements" as defined in Article XIII;
 - 2. Enclosed ates shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing fot the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet oe exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for wvery square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than on foot above the lowest grade: and,
 - (3) openings may be equipped with screen, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters auto- matically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 - 3. The enclosed area shall not be used for human habitation; and,
 - 4. The enclosed areas are useable solely for building access, parking of vehicles, or storage.
- M. **Bridges** - New construction or substantial improvement of any bridge in Zones AE and A shall be designed such that:
 - 1. when possible, the lowest horizontal member (excluding the pilings, or columns) is ele- vated to at least one foot above the base flood elevation; and
 - 2. a registered professional engineer shall certify that:
 - a. the structual design and methods of construction shall meet the elevation require- ments of this section and the floodway standards of Article VI.K.; and

- b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values shall be those associated with the base flood.
- N. **Containment Walls** -New construction or substantial improvement of any containment wall located within:
 - 1. Zones AE and A shall:
 - a. have the containment wall elevated to at least one foot above the base flood elevation;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.
- O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and A, in and over water and seaward of the mean high tide if the following requirements are met:
 - 1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
 - 2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for construction.

ARTICLE VII - CERTIFICATE OF COMPLIANCE

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

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

2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII - REVIEW SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under federal law, state law or local ordinances or regulations and all projects on five (5) or more disturbed acres, or in the case of manufactured home parks divided into two (2) or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement. Or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of Fairfield may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

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

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 1. a showing of good and sufficient cause; and,
 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article IX and Article VI.K. are met; and,
 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
1. the development meets the criteria of Article IX, paragraphs A. through D. above; and
 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below base flood level will result in greatly increase premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 2. such construction below the base flood level increases risks of life and property; and,
 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are

related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty (30) days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

ARTICLE X - ENFORCEMENT AND PENALTIES

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

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIII - DEFINITIONS

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

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

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

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

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

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

Building - see **Structure**.

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

Code Enforcement Officer - any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Development - means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition,

extraction of materials, public or private sewage disposal systems or water supply facilities.

Elevated Building - means a non-basement building

- a. built, in the case of a building in Zones AE or A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, posts, piers, or "stilts," and
- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

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

Elevation Certificate - An official form (FEMA Form 81-31, 07/00, as amended) that:

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

Flood or Flooding - means:

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

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

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

Flood Insurance Study - see **Flood Evaluation Study**.

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

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

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

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

Floodway - see **Regulatory Floodway**.

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

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

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

Historic Structure - means any structure that is:

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

Locally Established Datum - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not

referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

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

Manufactured Home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailer, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

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

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

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

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

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

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

Recreational Vehicle - means a vehicle which is ;

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

Regulatory Floodway -

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

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

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

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

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

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

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

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

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

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

ARTICLE XIV - ABROGATION

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

60.3 (d)

GENERAL ASSISTANCE ORDINANCE

APPENDICES A-D

2017-2018

The Municipality of **FAIRFIELD** adopts the MMA Model Ordinance GA Appendices (A-D) for the period of Oct. 1, 2017—September 30, 2018. These appendices are filed with the Department of Health and Human Services (DHHS) in compliance with Title 22 M.R.S.A. §4305(4).

Signed the **13th** (day) of **September** (month) **2017** (year) by the municipal officers:



(Michael Taylor, Chair)



(John Picchiotti, Vice Chair)



(Aaron Rowden, Secretary)



(Beverly Busque)



(Jeffrey Neubauer)

Oct 1, 2017 to Sept 30, 2018

OVERALL MAXIMUMS

Persons in Household

1	2	3	4	5
675	704	835	1133	1,146

Household of 6 = 1,221

* Add \$75 for each additional person

FOOD MAXIMUMS

Persons	Weekly	Monthly
1	44.65	192
2	81.86	352
3	117.21	504
4	148.84	640
5	176.74	760
6	212.33	913
7	234.65	1,009
8	268.14	1,153

Add \$144 per month for each + person

HEATING FUEL

Month	Gallons	Month	Gallons
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

NOTE: When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

Housing Maximums

BEDROOM	UNHEATED		Heated	
	Weekly	Monthly	Weekly	Monthly
0	120	517	143	615
1	121	519	148	637
2	147	631	176	758
3	202	869	243	1043
4	202	869	243	1043

PERSONAL CARE & HOUSEHOLD SUPPLIES

Number in Household	Weekly Amount	Monthly Amount
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

NOTE: For each additional person add \$1.25 per week or \$5.00 per month.

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

Number of Children	Weekly Amount	Monthly Amount
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

ELECTRIC

NOTE: For an electrically heated dwelling also see "Heating Fuel" maximums below. But remember, an applicant is not automatically entitled to the "maximums" established applicants must demonstrate need.

1) Electricity Maximums for Households Without Electric Hot Water: The maximum amounts allowed for utilities, for lights, cooking and other electric uses excluding electric hot water and heat:

Number in Household	Weekly	Monthly
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.90	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

NOTE: For each additional person add \$7.50 per month.

2) Electricity Maximums for Households With Electrically Heated Hot Water: The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses excluding heat:

Number in Household	Weekly	Monthly
1	\$20.65	\$89.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$38.75	\$167.00
6	\$41.00	\$176.00

NOTE: For each additional person add \$10.00 per month.

1-800-442-6003

Revised 10-1-17

2017-2018 GA Overall Maximums

Metropolitan Areas

COUNTY	Persons in Household				
	1	2	3	4	5*
Bangor HMFA: Bangor, Brewer, Eddington, Glenburn, Hampden, Hermon, Holden, Kenduskeag, Milford, Old Town, Orono, Orrington, Penobscot Indian Island Reservation, Veazie	714	788	994	1,242	1,506
Penobscot County HMFA: Alton, Argyle UT, Bradford, Bradley, Burlington, Carmel, Carroll plantation, Charleston, Chester, Clifton, Corinna, Corinth, Dexter, Dixmont, Drew plantation, East Central Penobscot UT, East Millinocket, Edinburg, Enfield, Etna, Exeter, Garland, Greenbush, Howland, Hudson, Kingman UT, Lagrange, Lakeville, Lee, Levant, Lincoln, Lowell town, Mattawamkeag, Maxfield, Medway, Millinocket, Mount Chase, Newburgh Newport, North Penobscot UT, Passadumkeag, Patten, Plymouth, Prentiss UT, Seboeis plantation, Springfield, Stacyville, Stetson, Twombly UT, Webster plantation, Whitney UT, Winn, Woodville	605	682	847	1,095	1,269
Lewiston/Auburn MSA: Auburn, Durham, Greene, Leeds, Lewiston, Lisbon, Livermore, Livermore Falls, Mechanic Falls, Minot, Poland, Sabattus, Turner, Wales	641	726	915	1,169	1,397
Portland HMFA: Cape Elizabeth, Casco, Chebeague Island, Cumberland, Falmouth, Freeport, Frye Island, Gorham, Gray, Long Island, North Yarmouth, Portland, Raymond, Scarborough, South Portland, Standish, Westbrook, Windham, Yarmouth; Buxton, Hollis, Limington, Old Orchard Beach	1,002	1,131	1,431	1,931	2,097
York/Kittery/S.Berwick HMFA: Berwick, Eliot, Kittery, South Berwick, York	982	1,025	1,333	1,714	2,173
Cumberland County HMFA: Baldwin, Bridgton, Brunswick, Harpswell, Harrison, Naples, New Gloucester, Pownal, Sebago	761	807	1,072	1,561	1,780

Appendix A
Effective: 10/01/17-09/30/18

COUNTY	1	2	3	4	5*
Sagadahoc HMFA: Arrowsic, Bath, Bowdoin, Bowdoinham, Georgetown, Perkins UT, Phippsburg, Richmond, Topsham, West Bath, Woolwich	781	863	999	1,318	1,600
York County HMFA: Acton, Alfred, Arundel, Biddeford, Cornish, Dayton, Kennebunk, Kennebunkport, Lebanon, Limerick, Lyman, Newfield, North Berwick, Ogunquit, Parsonsfield, Saco, Sanford, Shapleigh, Waterboro, Wells	745	872	1,079	1,457	1,477

*Note: Add \$75 for each additional person.

Non-Metropolitan Areas

Persons in Household

COUNTY	1	2	3	4	5*
Aroostook County	618	642	760	965	1,049
Franklin County	646	671	793	985	1,400
Hancock County	693	787	992	1,249	1,367
Kennebec County	722	746	928	1,216	1,297
Knox County	754	755	928	1,186	1,315
Lincoln County	783	834	987	1,234	1,470
Oxford County	630	646	771	1,110	1,343
Piscataquis County	595	672	828	1,090	1,125
Somerset County	675	704	835	1,133	1,146
Waldo County	680	751	887	1,206	1,281
Washington County	630	645	763	985	1,173

* Please Note: Add \$75 for each additional person.

2017-2018 Food Maximums

Please Note: The maximum amounts allowed for food are established in accordance with the U.S.D.A. Thrifty Food Plan. As of October 1, 2017, those amounts are:

Number in Household	Weekly Maximum	Monthly Maximum
1	44.65	192
2	81.86	352
3	117.21	504
4	148.84	640
5	176.74	760
6	212.33	913
7	234.65	1,009
8	268.14	1,153

Note: For each additional person add \$144 per month.

2017-2018 GA Housing Maximums (Heated & Unheated Rents)

NOTE: NOT ALL MUNICIPALITIES SHOULD ADOPT THESE SUGGESTED HOUSING MAXIMUMS! Municipalities should ONLY **consider** adopting the following numbers, if these figures are consistent with local rent values. If not, a market survey should be conducted and the figures should be altered accordingly. The results of any such survey must be presented to DHHS prior to adoption. **Or**, no housing maximums should be adopted and eligibility should be analyzed in terms of the Overall Maximum—Appendix A. (*See Instruction Memo for further guidance.*)

Non-Metropolitan FMR Areas

<u>Aroostook County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	111	476	130	559
1	111	476	134	578
2	130	558	159	684
3	167	718	204	878
4	177	762	221	949
<u>Franklin County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	117	503	137	587
1	117	503	141	607
2	137	591	167	717
3	173	743	209	898
4	258	1,108	302	1,300
<u>Hancock County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	124	535	147	633
1	139	599	167	720
2	183	788	213	915
3	227	976	270	1,159
4	242	1,041	294	1,264
<u>Kennebec County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	131	564	154	662
1	131	564	158	679
2	168	724	198	851
3	219	943	262	1,126
4	226	971	278	1,194

Non-Metropolitan FMR Areas

<u>Knox County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	139	596	161	694
1	139	596	161	694
2	168	724	198	851
3	212	913	255	1,096
4	230	989	282	1,212
<u>Lincoln County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	145	625	168	723
1	150	646	178	767
2	182	783	212	910
3	223	961	266	1,144
4	266	1,144	318	1,367
<u>Oxford County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	110	472	133	570
1	110	472	135	579
2	132	567	161	694
3	195	837	237	1,020
4	237	1,017	288	1,240
<u>Piscataquis County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	106	457	126	540
1	118	508	143	613
2	147	630	177	759
3	198	853	235	1,011
4	198	853	240	1,034
<u>Somerset County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	120	517	143	615
1	121	519	148	637
2	147	631	176	758
3	202	869	243	1,043
4	202	869	243	1,043

Non-Metropolitan FMR Areas

<u>Waldo County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	121	522	144	620
1	131	563	159	684
2	159	683	188	810
3	217	933	260	1,116
4	222	955	274	1,178
<u>Washington County</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	110	472	133	570
1	110	472	134	578
2	130	559	160	686
3	166	712	208	895
4	208	847	249	1,070

Metropolitan FMR Areas

<u>Bangor HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	129	556	152	654
1	140	600	168	721
2	184	790	213	917
3	225	969	268	1,152
4	275	1,180	326	1,403
<u>Penobscot Cty. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	104	447	127	545
1	115	494	143	615
2	149	643	179	770
3	191	822	234	1,005
4	219	943	271	1,166
<u>Lewiston/Auburn MSA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	112	483	135	581
1	125	538	153	659
2	165	711	195	838
3	208	896	251	1,079
4	249	1,071	301	1,294

Metropolitan FMR Areas

<u>Portland HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	196	844	219	942
1	219	943	247	1,064
2	285	1,227	315	1,354
3	386	1,658	428	1,841
4	412	1,771	464	1,994
<u>York/Kittery/S. Berwick HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	192	824	214	922
1	195	837	223	958
2	263	1,129	292	1,256
3	335	1,441	378	1,624
4	430	1,847	481	2,070
<u>Cumberland Cty. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	140	603	163	701
1	144	619	172	740
2	202	868	231	995
3	299	1,288	342	1,471
4	338	1,454	390	1,677
<u>Sagadahoc Cty. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	145	623	168	721
1	157	675	185	796
2	185	795	214	922
3	243	1,045	286	1,228
4	296	1,274	348	1,497
<u>York Cty. HMFA</u>	<u>Unheated</u>		<u>Heated</u>	
Bedrooms	Weekly	Monthly	Weekly	Monthly
0	136	587	159	685
1	159	684	187	805
2	203	875	233	1,002
3	275	1,184	318	1,367
4	269	1,156	320	1,374

2017-2018 GA MAXIMUMS SUMMARY SHEET

Note: The overall maximums found in *Appendices A, B, C, D, E, and F* are effective from **October 1, 2017 to September 30, 2018.**

APPENDIX A - OVERALL MAXIMUMS

<u>County</u>	<u>Persons in Household</u>					
	1	2	3	4	5	6
NOTE: For each additional person add \$75 per month.						
(The applicable figures from Appendix A, <i>once adopted</i> , should be inserted here.)						

APPENDIX B - FOOD MAXIMUMS

<u>Number in Household</u>	<u>Weekly Maximum</u>	<u>Monthly Maximum</u>
1	44.65	192
2	81.86	352
3	117.21	504
4	148.84	640
5	176.74	760
6	212.33	913
7	234.65	1,009
8	268.14	1,153
NOTE: For each additional person add \$144 per month.		

APPENDIX C - HOUSING MAXIMUMS

<u>Number of Bedrooms</u>	<u>Unheated</u>		<u>Heated</u>	
	<u>Weekly</u>	<u>Monthly</u>	<u>Weekly</u>	<u>Monthly</u>
0				
1				
2				
3				
4				
(The applicable figures from Appendix C, <i>once adopted</i> , should be inserted here.)				

FOR MUNICIPAL USE ONLY

APPENDIX D - UTILITIES

ELECTRIC

NOTE: For an electrically heated dwelling also see "Heating Fuel" maximums below. But remember, an applicant is *not automatically* entitled to the "maximums" established—applicants must demonstrate need.

1) **Electricity Maximums for Households *Without Electric Hot Water*:** The maximum amounts allowed for utilities, for lights, cooking and other electric uses *excluding* electric hot water and heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$14.00	\$60.00
2	\$15.70	\$67.50
3	\$17.45	\$75.00
4	\$19.90	\$86.00
5	\$23.10	\$99.00
6	\$25.00	\$107.00

NOTE: For each additional person add \$7.50 per month.

2) **Electricity Maximums for Households *With Electrically Heated Hot Water*:** The maximum amounts allowed for utilities, hot water, for lights, cooking and other electric uses *excluding* heat:

<u>Number in Household</u>	<u>Weekly</u>	<u>Monthly</u>
1	\$20.65	\$89.00
2	\$23.75	\$102.00
3	\$27.70	\$119.00
4	\$32.25	\$139.00
5	\$38.75	\$167.00
6	\$41.00	\$176.00

NOTE: For each additional person add \$10.00 per month.

NOTE: For electrically heated households, the maximum amount allowed for electrical utilities per month shall be the sum of the appropriate maximum amount under this subsection and the appropriate maximum for heating fuel as provided below.

APPENDIX E - HEATING FUEL

<u>Month</u>	<u>Gallons</u>	<u>Month</u>	<u>Gallons</u>
September	50	January	225
October	100	February	225
November	200	March	125
December	200	April	125
		May	50

FOR MUNICIPAL USE ONLY

NOTE: When the dwelling unit is heated electrically, the maximum amount allowed for heating purposes will be calculated by multiplying the number of gallons of fuel allowed for that month by the current price per gallon. When fuels such as wood, coal and/or natural gas are used for heating purposes, they will be budgeted at actual rates, if they are reasonable. No eligible applicant shall be considered to need more than 7 tons of coal per year, 8 cords of wood per year, 126,000 cubic feet of natural gas per year, or 1000 gallons of propane.

APPENDIX F - PERSONAL CARE & HOUSEHOLD SUPPLIES

<u>Number in Household</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1-2	\$10.50	\$45.00
3-4	\$11.60	\$50.00
5-6	\$12.80	\$55.00
7-8	\$14.00	\$60.00

NOTE: For each additional person add \$1.25 per week or \$5.00 per month.

SUPPLEMENT FOR HOUSEHOLDS WITH CHILDREN UNDER 5

When an applicant can verify expenditures for the following items, a special supplement will be budgeted as necessary for households with children under 5 years of age for items such as cloth or disposable diapers, laundry powder, oil, shampoo, and ointment up to the following amounts:

<u>Number of Children</u>	<u>Weekly Amount</u>	<u>Monthly Amount</u>
1	\$12.80	\$55.00
2	\$17.40	\$75.00
3	\$23.30	\$100.00
4	\$27.90	\$120.00

FOR MUNICIPAL USE ONLY

HEDGES & SHRUBBERY

No hedges, shrubbery, fences, walls, or other obstructions of more than 36" in height (measured from the surface of the traveled way laterally adjacent to said obstruction) shall be permitted at intersections of public ways nearer than thirty (30) feet either way.

Any person found guilty of violating this ordinance shall be subject to a fine of not more than \$25.00 for each offense.

Town of Fairfield

Land Use Ordinance

The effective adoptive date of this Ordinance is the 14th day of April, 1999.

Amended November 10, 1999
Amended December 13, 2000
Amended July 10, 2002
Amended March 9, 2005
Amended June 22, 2005
Amended July 6, 2005
Amended October 26, 2005
Amended April 12, 2006
Amended May 10, 2006
Amended August 9, 2006
Amended March 10, 2010
Amended April 14, 2010
Amended June 15, 2011
Amended October 5, 2011
Amended March 13, 2013
Amended June 12, 2013
Amended August 12, 2015
Amended August 24, 2016

A True Copy I Attest:

Town Clerk

Town of Fairfield
Land Use Ordinance

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ARTICLE 1: General Provisions

1.1 Authority

The regulations contained in this Land Use Ordinance are enacted under the Home Rule Authority granted by the State of Maine (30-A M.R.S.A. as 3001) and other specific authority, pursuant to the Fairfield Comprehensive Plan, as revised in 2015.

1.2 Short Title

This ordinance and the Official Land Use Map hereby incorporated, shall be known and may be cited as the "Land Use Ordinance of the Town of Fairfield."

1.3 Purpose

This ordinance is enacted for the general purpose of promoting the health, safety, and general welfare of the citizens of the Town of Fairfield, and for other, specific purposes, including:

- provision of adequate and cost-effective public facilities and services;
- conservation of valuable natural resources;
- promotion of local economic development and property values;
- preservation of safety and convenience on public roads;
- revitalization of the town's downtown commercial area;
- protecting the rural character of certain portions of the town; and
- maintaining in all cases clean, safe, and comfortable neighborhoods for inhabitants of the town.

1.4 Jurisdiction

The provision of this ordinance shall govern the use of all land and structures within the Town of Fairfield and, more specifically, the location and development of residential, commercial, industrial and public property within the Town.

1.5 Application of Terms and Requirements

In interpreting and applying the provisions of this ordinance, said provisions shall be deemed to be the minimum required to protect the health, safety, and general welfare of the public. Captions and headings contains in this ordinance are considered an integral part of the ordinance, and shall be used to help determine applicability of sections to which they apply.

1.6 Conflict with Other Laws

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 provision imposing the greater restriction upon the use of land, buildings, or structures shall control.

1.7 Severability.

Should any section or part of a section or any provision of this Ordinance be declared by a court of jurisdiction to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the affected part.

1.8 Repeal of Prior Ordinance

The prior Land Use Ordinance of the Town of Fairfield, together with all amendments currently in force, is hereby repealed and replaced, as of the effective date of this ordinance.

1.9 Effective Date.

This ordinance shall take effect and be in force from the date of its adoption.

ARTICLE 2: Definitions of Terms Used in this Ordinance

2.1 Construction of Language

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have their ordinarily accepted meaning, except to the extent that another meaning is clearly implied by their context in this Ordinance. 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 firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity. The words "he", (s)he," or "they" when used shall refer to the person or persons so designated regardless of gender.

If clearly implied by the context in which they appear, the present tense includes the future tense, the singular number includes the plural, and the plural numbers includes the singular.

The words "shall" and "will" are mandatory, the word "may" is permissive. The word "lot" includes the words "plot" and "parcel".

The words "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" mean the Town of Fairfield, Maine.

2.2 Definitions

In this Ordinance the following terms shall have the following meanings:

Abutter: The owner of property adjoining or located within 200 feet of a boundary of the parcel proposed to be developed.

Accessory dwelling unit: A second dwelling unit located on the same lot or within the same building as the principal dwelling unit intended for use as a complete and independent dwelling including kitchen and bathroom.

Accessory use or structure: A use or structure which is customarily and in fact both incidental and subordinate to the principal use of the structure. The term "incidental" in reference to the principal use or structure shall mean subordinate and minor in significance to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot.

Acre: A measurement of area equivalent to 43,560 square feet.

Administrative Review: The process by which the Board of Appeals is authorized to hear an appeal of a decision of the Code Enforcement Officer. An Administrative Review shall be only conducted through the procedures described in Section 3.10.D of this ordinance.

Adult Businesses: Any commercial enterprise, including but not limited to bookstores and theaters, which as a substantial or significant portion of its enterprise rents, sells, or keeps for display books, videos, motion pictures or any other form of representation of sexually explicit material or activities or which features live entertainment in which

performers have exposed genitals at any point during the performance. "Sexually explicit" means the depiction or display of human genitals.

Agriculture (Agricultural Operation): The production, keeping, or maintenance for sale or lease, of plants, animals, or products thereof, including ornamental and greenhouse products. Agriculture does not include forest management and timber harvesting activities.

Alteration: Any change, addition, or modification in construction, other than cosmetic or decorative, or any change in the structural members of buildings such as bearing walls, columns, beams or girders.

Authorized Agent: Any person having written authorization to act in behalf of a property owner, signed by the property owner.

Automobile Graveyard: The term as defined in 30-A M.R.S.A. sec. 3752, as amended.

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

Basement: Any portion of a building with at least 50 percent of its volume below ground level, typically having a masonry floor and walls which comprise the structure's foundation, and where the clear height between floor and joists supporting the floor directly above is six feet or greater.

Bed and Breakfast: A type of overnight accommodation based within the permanent dwelling of the person or family acting as proprietor and that provides accommodations for a fee for stays of limited duration. A bed and breakfast shall contain fewer than ten rental rooms and shall provide food only to registered guests, except that a bed and breakfast may be separately licensed to host special functions.

Body of Water: Shall mean a free flowing river or stream, with a defined channel lacking terrestrial vegetation, and flowing water for more than three months during the year, or a pond with no less than 20,000 square feet of water surface.

Building: Any structure having a roof supported by columns, walls, or other framework intended for the housing or enclosure of persons, animals or personal property.

Building Height: The vertical distance measured between the average finished grade of the ground at the front of a building and the highest point of the roof, not including chimneys, spires, towers, or similar auxiliary attachments.

Business or Personal Services: A commercial enterprise which provides services but not goods, including but not limited to: beauty shops, secretarial services, real estate brokers, and janitorial services. The term shall not be interpreted to include motor vehicle sales and services but may include certain professional offices.

Campground: Any area or tract of land improved to accommodate temporary living quarters for two or more parties, including, but not limited to tents, recreational vehicles, or other shelters, for which a fee is charged.

Change of Use: A change from one category in the land use table, as found in Section 6.4, to another or the addition of a new category of use to an existing use.

Child Care: An establishment, including a private residence, where three or more children under the age of six (6) are cared for in return for compensation. Child care is considered to be "public or private schools" when it does not qualify as home occupation.

Code Enforcement Officer (CEO): A person appointed by the Town of Fairfield to administer and enforce this ordinance. Reference to functions ordinarily performed by the Code Enforcement Officer may be construed to include those of Building Inspector, Plumbing Inspector, Health Officer, and the like where applicable.

Communication Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, and monopoles, for the purpose of transmitting or relaying radio frequency signals, including, but not limited to, radio, television, cellular, and personal communication service frequencies. Towers established for personal use purposes, such as citizen band and ham radio operations, and which are less than 50 feet in height, shall not be included in this definition.

Conditional Use: A use that is likely to have significant effects on neighboring land uses or public services and is therefore subject to review and approval by the planning board, which will ensure that all performance standards and other requirements of this ordinance are met.

Congregate Housing: A multi-family development with central dining facilities serving functionally impaired persons.

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

Controlled Substance Facility: A business, any part of which is engaged in the production or distribution of substances controlled by the Maine Department of Health and Human services. This term includes marijuana dispensaries, grow operations, and methadone clinics, for example, but excludes licensed hospitals, pharmacies, or physician's offices.

Critical Natural Area: Any area identified and listed by the Natural Areas Program of the Maine Department of Conservation as containing rare or unique botanical features or habitat for rare, threatened, or endangered plant species or rare and unique natural communities.

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

Developed Area: The portion of a lot which is disturbed for the intended use, including all areas used for structures, parking, circulation, and drainage.

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

District: A specified portion of the Town of Fairfield, delineated on the Official Land Use Map, within which certain regulations apply under the provisions of this Ordinance.

Dwelling: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters. The term shall include mobile homes, but not recreational vehicles.

Single-Family Dwelling: A building containing only one (1) dwelling unit.

Two-Family Dwelling: A building containing only two (2) dwelling units.

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

Dwelling Unit: A room or suite of rooms which contains independent living, cooking, sleeping, bathing and sanitary facilities designed for use by a single household or family.

Eating or Drinking Establishment: An establishment where food and/or beverages are prepared and served to the general public for immediate consumption in exchange for compensation. The sale of pre-packaged meal items or preparation of food intended exclusively for consumption off the premises (delivery or take-out) are considered retail sales and are not to be included within this definition.

Sit-down Restaurant: An eating or drinking establishment in which significant interior building space is devoted to seating area for patrons. The term includes fast food restaurants which provide indoor seating, even if there is drive-through or walk-up service.

Snack Bar: A place where food is prepared for consumption on or off the premises, where all of the consumption is intended to take place outside of the confines of the building, and where ordering and pickup of food may take place from a motor vehicle. The term includes businesses commonly referred to as food trucks, ice cream stands, coffee shacks, and drive-ins.

Essential Facility: Gas, electrical, or communication structures such as steam, fuel, power, or water transmission or distribution lines, telephone cables, poles, and related equipment, pipelines, sewage lines, and associated storage equipment. Such systems may include poles, wires, drains, conduits, fire alarms, hydrants, visual and audible signals and similar accessories. The term does not include wireless communication towers, power substations, and accessory buildings.

Expansion: In relation to a building, expansion shall mean: enlargement of floor area, or enlargement of building enclosure. In relation to a use: the addition of weeks or months to a business operating season; the addition of hours to a business day; the use of more floor area or ground area; or the provision of additional seating capacity.

Farm Stand: A booth, stall, or building located on the farm on which the produce and products being sold are available to the general public. Items not produced on the farm shall not comprise a significant proportion of sales merchandise.

Flood Map: The official map on which the Dept. of Housing and Urban Development or the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the Town.

Floodplain: The lands adjacent to a body of water which have been or may be covered by the 100-year flood.

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

Floor Area, Gross: The sum, in square feet of the floor areas of all roofed portions of a building, as measured from the exterior faces of the exterior walls.

Forest Operations: The planting, thinning, cutting or removal of trees from their growing site, including the operation of mechanical chippers or portable sawmills associated with such operations, but not to include the clearing of land for approved construction.

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

Fueling Station (Fuel Sales): Buildings and structures required for the retail sale of petroleum products (propane, gasoline, diesel fuel), including any fuel storage and delivery systems.

Historic or Archeological Resource: Are identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as a historic or archeological resource as well as areas identified in the Town of Fairfield Comprehensive Plan.

Home Occupation: An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; 2) which employs no more than two (2) persons other than family members residing in the home, and 3) occupies no more than 25 percent of the gross floor area of all buildings on the lot.

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,

out-patient departments, training facilities, and staff offices.

Impervious Surface: All portions of a development which are disturbed and not re-vegetated, including gravel surfaces and compacted earth surfaces.

Industrial: Connected with the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods or the extraction of natural resource products.

Junkyard: A yard, field or other area used as place for storage for:

- A. Discarded, worn-out, junked plumbing, heating supplies, household appliances, and furniture;
- B. Discarded, scrap, and junk lumber;
- C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, plastic debris, waste, and scrap iron, steel, and other scrap ferrous or non-ferrous material, and
- D. Garbage dumps, waste dumps, and sanitary landfills.

Kennels/Boarding: Any place, building, tract of land, abode, enclosure, or vehicle where three or more domestic animals, owned singly or jointly are kept for a commercial purpose, including but not limited to breeding, hunting, show, field trials or exhibition, or where one or more domestic animals are kept for their owners in return for a fee. Dogs or cats under the age of six months shall not be counted for the purpose of this definition.

Level of Service: A term used by traffic engineers, indicating a scale of "A" to "F", measuring the volume of vehicular traffic in relation to the capacity of an intersection or road segment. Levels of Service "E" or "F" describe road situations with severe problems attributable to traffic congestion.

Lot: A parcel of land occupied or capable of being occupied by buildings or uses, including required setbacks, and requiring frontage upon a public street, right-of-way or private way.

Lot, Corner: A lot with at least two contiguous sides abutting upon a street or right of way.

Lot, Interior: Any lot other than a corner lot.

Lot Area: The area of land enclosed within the boundary lines of a lot, not including land below the normal high-water line of a water body or upland edge of a wetland and areas within road right-of-way.

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

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

Front Lot Line: On an interior lot the line separating the lot from the street or right of way. On a corner lot, the line separating the lot from the street along the longest frontage distance.

Side Lot Line: Any lot line other than the front 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 in the Somerset County Registry of Deeds.

Manufactured Housing Unit (also Mobile Home): Structures, transportable in one or two sections, which are constructed in a manufacturing facility and transported to a building site, and which are designed to be used as dwellings when connected to suitable electrical, water supply, and sewage facilities.

Manufacturing: The making of goods and articles by hand or machinery. Manufacturing shall include assembling, fabricating, finishing, packaging or processing operations. A manufacturing activity includes warehousing, power generation, waste disposal and other functions directly associated with the activity.

Mobile Home Park: A lot of land designed and/or used to accommodate three or more manufactured housing units or mobile homes, and where the land is under unitary ownership.

Motor Vehicle Sales and Service: An establishment which engages in the sale, rental, leasing, or repair of motor vehicles, including but not limited to automobiles, trucks, recreational vehicles, and boats. This term shall not include sales of manufactured housing units, sales of gasoline, diesel or other fuel without associated service facilities, or small engine repair shops.

MUBEC: The Maine Uniform Building and Energy Code adopted pursuant to 10 MRSA §9271.

Non-Conforming Use: Use of buildings, structures, premises, land or parts thereof which is not permitted in the District in which it is situated or which does not meet the performance standards prescribe for it by this Ordinance, but which is allowed to remain solely because it was lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-Conforming Structure: A structure which does not meet any one 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.

Non-Conforming Lot of Record: A lot shown on a plan or deed recorded prior to the effective date of this Ordinance or amendment which, does not meet the area or frontage requirements of the District in which it is located.

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

Open Space Subdivision: A subdivision reviewed and approved under the provisions of the Town of Fairfield Subdivision Ordinance in which at least fifty (50) percent of the total area is reserved for open space use.

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

Outdoor Recreation Facility: Any land use which is primarily devoted to participating in or watching outdoor recreation activities and which is operated as a commercial facility.

Overnight Accommodation: A commercial enterprise in which rooms or suites of rooms are offered for a fee to travelers and transient guests. Overnight accommodations may qualify as subdivisions if rental units are a dwelling unit, as defined, and are leased or rented monthly.

Permit: An official document of the Town of Fairfield, issued by the Code Enforcement Officer and authorizing a specific activity in accordance with an approval by the CEO or Planning Board.

Place of Public Assembly: A land use in which the principal intent is to provide a place for an association or persons organized for social, religious, benevolent, or academic purposes; whose facilities are open to members and guests. The term shall include grange halls, bottle clubs, theaters, auditoriums, religious buildings, and similar uses, and includes auxiliary uses such as kitchens, offices, meetings rooms.

Principal Structure: The building enclosing or serving the principal use of the premises.

Principal Use: The use which fulfills the primary purpose of the person in possession of the premises.

Private Road: A private way meeting the road construction standards as specified in the Town's Subdivision Ordinance.

Professional Offices: The place of business for professional service providers except for medical, dental, veterinary or chiropractic providers.

Professional Service Provider: A person who practices a profession subject to licensing and regulation under the authority of the Maine Department of Professional and Financial Regulation.

Recreational Facility: A public or privately owned commercial enterprise designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, or the viewing thereof.

Recreational Vehicle (RV): A vehicle or an attachment to a vehicle, designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground and must be currently registered as a motor vehicle or trailer.

Repairs: Routine, ordinary maintenance of a structure for the purpose of maintaining its useful life. Examples include painting, papering, tiling, carpeting and replacement of plumbing, electrical, or mechanical parts. "Repairs" does not include activities such as removal of any wall, partition or portion thereof, removal of any structural support, changing of any means of egress, or addition to any water, waste disposal, gas, venting, electrical or mechanical system.

Residential Use: Any land use which includes a dwelling unit.

Restaurant: see **Eating or Drinking Establishment.**

River: The Kennebec River, together with its associated floodplain and wetlands.

Satellite Receiving Dish: An antenna designed to receive signals from satellites. A free-standing Satellite Receiving Dish is considered a structure under the terms in this ordinance.

School: An institution for education or instruction where any branch or branches of knowledge is imparted and which satisfies either of the following requirements:

Public or Private School: A school which is not operated for a profit or a gainful business; or which teaches courses of study which are sufficient to qualify attendance there as in compliance with State compulsory education requirements.

Commercial School: A school which is commercial or profit-oriented. Examples thereof are nursery, dancing, music, correspondence, driving, beauty, or business schools.

Seasonal Use: The occupation of a dwelling or recreational vehicle for residential purposes between April 1 and December 1, and not otherwise.

Setback: The horizontal distance from a lot line to the nearest part of a structure, road, parking space, or other regulated object or area.

Sight Distance: The visible distance available to a motorist at an access point to a public road, sufficient to allow a vehicle to enter the road without inhibiting the progress of other vehicles. For the purpose of calculation, sight distance is measured from the height of a hypothetical driver 3 and 1/2 feet above the driveway at a point 15 feet behind the street line, to an object 4 and 1/2 feet above the street.

Sign: Any device, fixture, placard, or structure containing a message, graphic illustration, or insignia erected or inscribed for public view for the purpose of identifying a person or activity or communicating information.

Sign Area: The surface area of that portion of the sign containing the advertising matter. Signs which have no separate sign surface shall be measured by taking the smallest area of a rectangle or circle which encloses the advertising matter. For two-sided signs, only one side of the sign shall be counted towards sign area.

Site Plan: A scale drawing depicting the geographical area of the lot together with an accurate representation of existing and prospective structure, roads, parking area, utilities, and other elements of a development.

Solar Energy System (SES): An area of land or building principally used to capture solar energy, convert it to electrical energy or thermal power and supply electrical or thermal power primarily for off-site use. A solar energy system consists of one or more free-standing ground or roof mounted solar collector devices, related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers; substations; electrical infrastructure; transmission lines and appurtenant structures. The term includes commercial and community solar installations, but not installations that are clearly accessory to existing principal uses.

Storage Containers: A prefabricated, metal container with roof and walls placed and used for the storage of goods, materials, or merchandise. The term includes, but is not limited to, boxcars, semi-trailers, and "piggyback" containers, but does not include garages or pre-assembled storage sheds or containers placed temporarily for collection of wastes.

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 the United States Geological Survey 7.5 minute series topographic map, or if not available, a 15 minute series topographic map, to the point where the body of water becomes a river, or flows to another water body or wetland within a shoreland zone.

Street: An existing state, county, or town way; a street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the County Registry of Deeds; or a street dedicated for public use and shown on a plan duly recorded in the County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term "street" shall not include those ways which have been discontinued or abandoned.

Street Frontage: The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the front lot line.

Structure: Anything built for the support, shelter or enclosure of persons, animals, or property, constructed or erected with a fixed location on or in the ground. The term includes structures temporarily or permanently located, such as decks, tents, and satellite dishes, but does not include sidewalks, patios, driveways, or parking lots.

Substantial Expansion: Floor space increase of 25% or new materials or processes not normally associated with the existing use.

Subdivision: The term as defined by the Town of Fairfield Subdivision Ordinance.

Subsurface Wastewater 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 Title 38 MRSA §414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system.

Throat: That portion of an access way into a commercial development devoted to holding vehicles preparing to enter or exit the development, containing no additional access points or directly accessing parking spaces.

Trailer, Utility: A vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a flatbed, boat trailer, horse trailer or snowmobile trailer.

Undue Hardship: The condition necessary for the granting of a variance, which shall include:

- 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 prior owner.

Urban Compact Area: An area within a municipality designated by the Maine Department of Transportation for municipal maintenance and control of access. Within Fairfield, the urban compact area includes ME Route 139 east of the I-95 interchange and US Route 201 south of the I-95 interchange.

Utilities: Public and private facilities intended for common or community use, such as water wells, pumping stations, water storage tanks, power, cable, and communication transmission lines, microwave relays, gas regulation stations, and sewage disposal plants.

Variance: A variance is a relaxation of the terms of this Ordinance. Variances permissible under this Ordinance are limited to dimensional standards. No variance shall be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted on nonconformities in the immediate or adjacent areas.

Veterinary Hospital or Clinic: A building used for the diagnosis, care and treatment of ailing or injured animals which may include overnight stays. The overnight boarding of healthy animals shall be considered a kennel.

Warehousing: The use of structures for the purpose of providing space for secure storage of household or business goods, including freight terminals, and moving and transfer companies, as well as that portion of structures established for long-term storage of inventory or business-related items. "Self-storage" or "mini-warehouse" uses in which spaces are available to the public for rent or lease shall be classified as "business services."

Waste and Scrap Storage/Processing Facility: A business in which the principal activity is the storage or processing for reuse, waste or scrap materials including, but not limited to glass, plastic, metal, tires, white goods, wood waste, or chemical compounds.

Wetland: An area which is inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soils and which is not part of a river, stream, or pond.

Wind Energy Generation Facility: A structure or machinery capable of converting the kinetic energy of wind into electrical energy for residential or commercial purposes. A wind energy generation facility includes all structures, utilities, and connections associated with the conversion and delivery of energy.

Written Notice: A notification in writing delivered in person to the individual or parties intended, or delivered by certified or regular US Mail to the last residential or business address of record in the Town of Fairfield.

Yard: The area between a structure and the property boundary.

Article 3: Permitting, Enforcement, and Appeals

3.1 Permit Requirements

A permit is required prior to commencement of development activities, as follows:

- A. Building Permit: This permit is required for the erection, alteration, rebuilding, repair, remodel, enlargement, demolition, or relocation of any proposed or existing building and shall be obtained from the Code Enforcement Officer (CEO).
- B. Development Permit by Rule: For land use activities so designated in the Land Use Table (Section 6.4), notification of the Town is required to assure that the standards of this Ordinance will be met. A Development permit by rule is also required for the erection of any new sign.
- C. Conditional Use Permit: A Conditional Use Permit shall be issued by the Planning Board. This permit is required for land use activities which by their nature involve uses with significant impacts on neighboring land uses, and which have unusual characteristics which must be evaluated on a case-by-case basis.
- D. Activities which require a permit-by-rule or conditional use permit are listed in the Land Use Table in Section 6.4 of this Ordinance. No permits shall be required for normal maintenance or decorative changes in existing structures or buildings, landscaping, or the ordinary conduct of agricultural and forest operations.
- E. Rights not Vested: Use rights under this Ordinance do not arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required permits and approvals. Such rights may arise when actual substantial construction has begun, or, in the case of pending applications, when the substantive review process on a complete application commences. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits, both State and local.

3.2 Building Permit Procedure

- A. Building permits are required in the Town of Fairfield prior to the start of construction, when any owner or authorized agent intends to construct, enlarge, alter, repair, remodel, move, demolish or change the occupancy of a building or structure which is regulated pursuant to Maine Uniform Building and Energy Code (MUBEC), as adopted by the Maine Bureau of Building Codes and Standards in M.R.S. Title 25, § 2371-2374, pursuant to Title 10, Chapter 1103, § 9721-9725. The Code Enforcement Officer (CEO) shall serve as the building official as defined in 25 MRSA §2371 and codes adopted pursuant thereto. The CEO shall be responsible for issuing building permits and certificates of occupancy, for inspecting all permitted construction for compliance with MUBEC or successor codes.
- B. The CEO shall receive the written Building Permit Application during normal office hours, and shall determine whether all required elements of the application have been submitted. Upon determining that a complete application has been submitted, the CEO shall approve or deny the application, issue the permit, if approved, within three (3) working days.
- C. Building permits issued shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The CEO is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.
- D. When plumbing or septic work is required to make a building habitable, no building permit shall be issued unless a

plumbing permit has first been secured. All sewage and water connections for all structures must comply with the requirements of the Maine State Plumbing Code.

- E. Following substantial completion of the activity permitted in conformance with the appropriate codes, the CEO shall issue a certificate of occupancy. No structure shall be utilized for the purpose for which it was permitted without a certificate of occupancy issued.
- F. An appeal from the decision of the Code Enforcement Officer may be made to the Board of Appeals, in accordance with section 3.10 of this ordinance, and must be filed within thirty (30) days of the decision.

3.3 Development Permit-by-Rule (PBR) procedure

- A. The permit-by-rule procedure is established as an expedited approval activity for new or expanded signs and for certain uses identified in the Land Use Table (Section 6.4 of this ordinance), to the extent that they will not significantly affect the purposes of this Ordinance or create nuisances. A PBR does not relieve the developer of the obligation to comply with the appropriate development standards in Articles 7-9 of this Ordinance.
- B. An applicant must file notice of the activity with the Town prior to beginning work on the activity. The notification must be on a form provided by the Town. The applicant must keep a copy to serve as the permit. The notification form must be sent to the Town by certified mail (return receipt requested), or hand delivered and date stamped by the Town. By signing the notification form, the applicant is representing that the activity will meet the applicability requirements and standards of this Ordinance. In addition, by signing the notification form the applicant represents that (s)he has sufficient title, right, or interest in the property where the proposed activity is to take place.
- C. The PBR becomes effective fourteen (14) calendar days after the Town receives the notification form, unless the Town approves or denies the PBR prior to that date. If the Town does not speak with or write to the applicant within this 14 day period regarding the PBR notification, the applicant may proceed to carry out the activity.
- D. Notwithstanding compliance with the PBR applicability requirements and standards set forth in this Ordinance, the Code Enforcement Officer (CEO) may require a permit application to be reviewed by the Planning Board in any case where credible evidence indicates that the activity may require interpretation of the standards of this Ordinance or could lead to significant nuisances, such as impacts on road use, traffic safety or environmental impacts. The CEO shall notify the applicant in writing within the 14 calendar day waiting period described in subsection (C) above. When the CEO so notifies an applicant, no work may be conducted unless and until the permit is obtained.
- E. A permit application referred to the planning board shall be reviewed as a conditional use permit and may require additional submissions.

3.4 Conditional Use Permit

- A. Pre-application Meeting: Every applicant for a conditional use permit is expected to meet informally with the Code Enforcement Officer prior to submitting a formal application. The purpose of the meeting will be to familiarize the Town with the proposed project so that it may be reviewed quickly and efficiently. The pre-application meeting is an opportunity for the applicant to ask questions about submission requirements, review processes, and development standards. The CEO may also act upon any request for waiver of submission requirements, as provided in section 3.5.A.
- B. Application Requirements: An applicant shall submit nine (9) copies of all written application materials to The Code Enforcement Officer, including the following information:
 - 1. The name and address of the applicant, land owner (if different), and applicant's agent (if different).
 - 2. The street address, and map and lot number of the property.
 - 3. A site plan showing, at a minimum, the location of existing and proposed structure(s) with respect to lot lines and water bodies. The site plan shall show existing topographic contour and proposed grading at contour intervals of not greater than five (5) feet.
 - 4. The site plan shall show the location and essential features of site improvements, including, but not limited to,

pedestrian and vehicle travel ways and parking areas, landscaping and buffer areas, storm water and erosion control structures, water, sewer, and power lines, and outside installations of any machinery or materials.

5. An HHE-200, or subsequent revision, if a subsurface wastewater treatment system will be used.
 6. Specification of the dimensions of the proposed structure(s), including length, width, height, and (if property subject to flooding) elevation of the lowest floor.
 7. A statement as to whether the proposed structure(s) is located on land subject to the Town's Shoreland Zoning Ordinance, or Floodplain Management Ordinance.
 8. The proposed use of the structure(s).
 9. A copy of plans and specifications for all structures shall be required.
 10. An estimate of the traffic to be generated by the development, and any modifications to public roads which may be necessary to absorb the traffic. If the development is estimated to generate more than 50 vehicles per hour at its peak hour of usage, an analysis of traffic impacts and the need for traffic control devices, prepared by a qualified registered professional engineer, together with a statement from the Town's Public Works Director that any proposed improvements to public roads are adequate and acceptable.
 11. If located on a State Highway not within the urban compact area, evidence that an application for DOT Entrance or Driveway Permit or Traffic Movement Permit has been applied for.
 12. A statement from the Town of Fairfield Fire Chief that suitable provisions for fire protection have been included.
 13. An estimate of the value of all public improvements associated with the development. If any alterations or improvements to public facilities are proposed, a financial performance guarantee, in accordance with Section 3.9, must be submitted prior to permit issuance.
 14. A list of names and addresses of all landowners within 200' of the property boundaries.
 15. An analysis of potential environmental impacts, including effects on surface and ground water bodies, air quality, and wildlife resources, together with a proposal for mitigating any negative impacts.
 16. An estimate of demand on public water supply and sewage disposal systems, together with statements from the General Manager of the Kennebec Water District and Superintendent of the Kennebec Sanitary Treatment District, concerning the ability of their respective systems to accommodate the development.
 17. An erosion control plan prepared by a registered professional engineer.
 18. A storm water management plan prepared by a registered professional engineer.
 19. A statement regarding the use, storage, or disposal of any dangerous, toxic, special, or hazardous wastes, whether solid, liquid, or gaseous, and special measures available to deal with them appropriate fashion.
- C. Upon receipt of a permit application the Code Enforcement Officer shall decide whether the information in the application is provided as required. If the CEO finds the application is insufficient or incomplete, (s)he shall within five (5) working days, notify the applicant in writing, indicating what necessary information is required to complete the application. The CEO shall take no further action on an incomplete application.
- D. Upon determination that an application is complete, the Code Enforcement Officer shall distribute the application materials for consideration by the Planning Board. If there is sufficient time for advertisement and notification, the Board shall schedule the public hearing required under subsection D, below, for the next regular meeting. From the date of the public hearing, the Board shall have thirty-five (35) calendar days in which to act on the application, unless said time period is continued by mutual consent of the Board and the applicant.
- E. A public hearing shall be held on all Conditional Use Permit applications.
1. The Town shall cause to be placed a notice of the public hearing in a newspaper of general circulation within the Town of Fairfield at least seven (7) days prior to the date of the hearing. Notice shall also be posted in the Town Office at least seven (7) days prior to the hearing.
 2. The Town shall notify by regular mail all landowners within 200 feet of the boundaries of the parcel to be developed, to be postmarked at least seven (7) days prior to the hearing. Notice shall be sent to the address provided on tax assessment records. Failure of property owners to receive notice in a timely manner shall not invalidate a decision of the Board.
 3. The public hearing shall be conducted in accordance with established rules of parliamentary procedure for hearings. All parties shall be granted an opportunity to speak. All comments and evidence shall be directed

through the Chair of the Board.

- F. The Board may, at its discretion, retain expert independent technical assistance to evaluate or supplement the evidence presented by the applicant and in the public hearing. The cost of such expertise shall be borne by the applicant in accordance with the terms of the escrow account set up at the time of application as provided in section 3.6.D.
- G. The Board shall prepare findings of fact and shall act to approve or deny the Conditional Use Permit application. The following criteria shall be used in considering whether to approve the application:
 - 1. The development will not create unsafe or unhealthful conditions within the neighborhood in which it is located, and shall not create or exacerbate effects upon neighboring properties.
 - 2. The development will not create or add to traffic congestion at or below Level of Service "D", as defined, and will not create unsafe traffic movements on public roads.
 - 3. The development will not result in undue reduction of air or water quality or wildlife habitat, and will not cause undue flooding or soil erosion.
 - 4. The development will to the greatest extent feasible, preserve historic, prehistoric, or archeological resources.
 - 5. The development will not cause an undue strain on public facilities or services, including public roads, water supply, sewage disposal, solid waste systems, police, educational, or other services.
 - 6. The applicant has sufficient financial and technical capacity to complete the development.
 - 7. The development is consistent with the Fairfield Comprehensive Plan, and in compliance with state and federal law, as well as all ordinances, rules, and regulations of the Town, including the performance standards of this ordinance, unless the Board acts to waive said standard.
- H. In approving the application, the Board may attach any conditions which it feels are necessary to meet the criteria of this ordinance. All conditions shall become a part of the permit, and any violation or failure to adhere to the conditions shall be considered a violation of this ordinance. Any financial performance guarantee imposed as a condition of approval shall be in place before the Code Enforcement Officer may issue the permit.
- I. An appeal from the decision of the Board may be made to the Somerset County Superior Court pursuant to Rule 80-b of the Maine Rules of Civil Procedure, and must be filed within thirty (30) days of the date of issuance of the decision.
- J. No substantial change shall be made in any approved conditional use without approval of the change by the Board. Any change which would result in an increase in either building area or developed area of more than ten (10) percent shall be reviewed as a new permit application.
- K. Granting of a Conditional Use Permit does not relieve the applicant of the requirement to obtain a building permit as provided in Section 3.2, where one would be required.

3.5 Waiver Provisions

- A. Waiver of submission requirements. The Code Enforcement Officer is authorized to waive the submission of items required for a Conditional Use Permit (section 3.4.A) upon a showing by the applicant that the item requested has no bearing on the application. A written record of the request for and granting of the waiver must be appended to the application materials.
- B. Waiver of design and performance standards. The Board is authorized in its review of applications for a Conditional Use Permit to waive requirements of Articles 7, 8, and 9 of this Ordinance. Waivers shall only be granted upon a showing by the applicant that the intent of the standard can be met with alternative designs or

approaches. Any waiver granted shall be listed as a condition of approval in writing on the final site plan.

3.6 Permit Administration

- A. All time periods, including those for appeals for issuance or denial of a permit, shall be counted from the date of written notification of the decision.
- B. If no substantial start is made on construction within 180 days of the date of the permit, it shall lapse and become void. Thereafter no further work on such construction can be made until a new application has been made and approved as aforesaid. The fee for such permit shall be charged as a renewal fee.
- C. Any permit issued which is found by the Board of Appeals or a Court of Jurisdiction not to be in conformity with the provisions of this Ordinance confers no right and is void.
- D. The Council shall set and may, from time to time amend, a fee structure for permits required under this ordinance. The fees shall be sufficient to pay for the Town's direct expenses incurred in processing the application. The Council shall also set a structure for collecting from applicants for conditional use permits a sum sufficient to cover anticipated technical review assistance, said sum to be deposited in an escrow account, with balance remaining to be returned to the applicant following completion of the review.

3.7 Duties of the Code Enforcement Officer (CEO)

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, (s)he shall immediately notify, in writing, the person responsible for such violations, indicating the nature of the violations and the action necessary to correct it. (S)he is authorized to order immediate cessation of a construction activity, pending action of the Town Council, as provided in Section 3.8.A, below.
- B. The CEO shall maintain a current file of all pertinent Federal, State and local statutes, ordinances, regulations, codes, and plans relating to land-use regulation including local subdivision plans.
- C. The CEO shall have the following authority and duties to enforce the provisions of this Ordinance, and may have other duties as assigned:
 - Examine preliminary plans;
 - Act upon all applications and collect any fees due, and refer or process applications as required;
 - Inspect sites where building permits have been issued to ensure compliance with all local, state, and federal laws, codes and/or ordinances, and to monitor activities under the jurisdiction of this ordinance at all times;
 - Investigate complaints and reported violations;
 - Keep written inspection reports and thorough records;
 - Issue violation notices;
 - Participate in appeal procedures;
 - Process or act on consent agreements involving violations of this Ordinance and to appear in court when necessary;
 - Offer advice and opinions to members of the public upon request;
 - Attend meetings of the Planning Board and Board of Appeals.
- D. The CEO shall have the authority to designate an assistant or agent.
- E. When there is a question concerning the interpretation of this Ordinance, the CEO may refer the matter to the board of appeals for interpretation.
- F. Stop-work order: Should the CEO find that information supplied in applying for a building permit is in error, or the work permitted has been exceeded he or she shall issue a stop-work order and revoke the permit. This action shall be accomplished by means of a verbal notification, to the responsible person or work crew, or by posting of the order at the entrance to the site or attaching the notice to the structure itself. This action shall be followed up by legal notice as provided in section 3.8.A.

3.8 Legal Action and Violations

- A. Notice of Violation: If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall provide written notice of the violation by hand or by certified mail to the person responsible for such violation, indicating the nature of the violation, the penalty for violation, and the action necessary to correct it. He or she shall order discontinuance of any illegal use of land, buildings, structures, additions, alterations, or structural changes thereto, or discontinuance of any illegal activity.
- B. Legal Action: When the above action does not result in the correction or abatement of the violation, the Town Council is hereby directed to institute any and all actions and proceedings, legal and equitable, including the seeking of injunctions of violations and imposition of fines that may be appropriate. The Town Council is authorized to enter into an administrative consent agreement for the purpose of eliminating violations of this Ordinance and collecting fines due the Town without the necessity of court action.
- C. Fines: Any person, firm or corporation being the owner, contractor or having control or use of any structure or premises who violates any of the provisions of this Ordinance shall upon conviction be fined in accordance with provisions of 30-A MRSA §4452. Each day such a violation is permitted to exist after written notification by the Code Enforcement Officer shall constitute a separate offense. Fines shall be payable to the Town.
- D. Administrative consent agreements: Upon recommendation of the Town Attorney, certain violations of this Ordinance may be resolved through an administrative consent agreement executed between the violator and the Town Council. An Administrative consent agreement shall require that:
 - 1) The violation shall be corrected in all respects;
 - 2) The violator admits to the violation, and
 - 3) The violator pays an appropriate monetary penalty of not less than \$100, plus the Town's legal costs.

3.9 Performance Guarantees

- A. Performance guarantees, when required, shall be tendered for all improvements to public facilities required under this Ordinance, including but not limited to, sidewalks, drainage facilities, traffic control devices, roadway and curbing within the public right-of-way, street lights, and water and sewer facilities.
- B. At the time of approval of the permit application, the applicant shall tender either a certified check payable to the Town, an irrevocable letter of credit from a lending institution, or a performance bond payable to the Town issued by a surety company in an amount adequate to cover the total costs of all required improvements and municipal inspection thereof, taking into account the time-span of the bond and the effects of inflation upon costs. The conditions and amount of the certified check or performance bond shall be determined by the Planning Board with advice from the town staff.
- C. Prior to the release of any part of the performance guarantee, the Code Enforcement Officer (CEO) shall determine that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested. The cost of inspections shall be deducted from the amount to be returned. Any interest accumulated by the performance guarantee shall be returned to the developer.
- D. The CEO may retain the services of a qualified individual or firm to inspect the construction of the required improvements. If the appointed inspector finds, upon inspection of the improvements performed before release of the guarantee, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, (s)he shall so report to the CEO. The CEO shall then notify the applicant, and, if necessary, the bonding company or lending institution, and take all necessary steps to preserve the Town's rights under the guarantee.

3.10 Board of Appeals

A. Establishment and Organization

1. A Board of Appeals for the Town of Fairfield is established in accordance with the provisions of 30-A M.R.S.A. section 2691. It shall consist of five (5) regular members and two (2) associate members. When a regular member of the Board is unable to act because of interest, physical incapacity, or absence, an associate member shall act in their stead.
2. The term of office of a member or associate is five (5) years, staggered so that one term expires each calendar year. Members of the Board of Appeals shall be appointed by the Town Council. A Councilor or their spouse may not be a member or associate member of the Board of Appeals. When there is a permanent vacancy, the Town Council shall appoint a new member to serve for the remainder of the unexpired term.
3. Members of the Board of Appeals may be removed from office by Town Council for cause upon written charges and after public hearing.
4. The Board of Appeals shall elect a chairperson and secretary from its own membership.

B. Proceeding of the Board of Appeals.

The Board of Appeals shall adopt rules necessary to conduct its affairs, in keeping with the provisions of this Ordinance and Title 30-A, MRSA, §2691. Meetings shall be held at the call of the chairperson or when requested by a majority of the members, or by order of the Town Council. The chairperson shall preside at all meetings and be the official spokesperson of the Board of Appeals. All meetings shall be open to the public. The Board of appeals shall keep minutes of its proceedings, showing the vote or absence of each member upon each question, and shall keep records of its official actions, all of which shall be a public record and be files in the town offices. A quorum shall consist of three members.

C. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

1. Administrative Review: To hear and decide appeals where it is alleged there is a violation or error in any order, requirement, decision, or determination made by the Code Enforcement Officer or Planning Board in the administration of this ordinance.
2. Variances: To authorize relief from dimensional standards upon appeal in specific cases of hardship, within the limitations set forth in this ordinance.
 - a. Variances may be obtainable only for height, minimum lot size, frontage, lot coverage, setbacks, and open space requirements. Variances cannot, under any circumstances, be obtainable for establishment of prohibited uses.
 - b. The Board shall not grant a variance unless it makes a finding of undue hardship as defined by this ordinance. Mere inconvenience to the property owner, financial hardship, or pleading that a greater value may be realized from the applicant's property were a variance granted shall not be sufficient evidence of undue hardship.
 - c. The variance granted shall be the minimum necessary to make possible the use of the property and will preserve the terms of the ordinance as much as possible. The Board of Appeals may impose such conditions to a variance as it deems necessary, to this end.

D. Appeal Procedure

1. An appeal may be taken to the Board of Appeals by an aggrieved person. Such appeal shall be filed within thirty (30) days of the decision appealed from.
2. Such appeal shall be made by filing with the Town Clerk a written notice of appeal, specifying ordinance section being appealed and the grounds for such appeal. For a variance appeal, the appellant shall submit:
 - a. A sketch drawn to scale showing lot lines, location of existing building, and other physical features pertinent to the variance request.
 - b. A concise written statement stating what variance is requested and why it should be granted.
3. Each appeal shall be accompanied by the required fee to cover advertising and administrative costs. If the actual cost of advertising and notification exceeds the fee paid, the appellant shall pay the balance.
4. The Board of Appeals shall hold a public hearing on the appeal within twenty-five (25) days of the filing of the appeal with the Town Clerk. Upon being notified of an appeal, the Code Enforcement Officer shall transmit to the Board all records of the decision being appealed. At least fifteen (15) days prior to the date of the hearing, the Town Clerk shall cause to be published in one issue in a newspaper of general circulation in the town a notice which includes:
 - a. The name of the person appealing.
 - b. A brief description of the property involved.
 - c. A brief description of the decision appealed from, or the nature of a variance appeal.
 - d. The time and place of the Board's hearing.

At least ten (10) days prior to the date set for hearing, the Town Clerk shall also give similar written notice to:

- a. All property owners of record whose properties lie within 200 feet of the affected property.
- b. The person making the appeal, and
- c. The Code Enforcement Officer, and any other parties of record.

E. Hearing Procedure

1. All proceedings of the Board of Appeals shall be conducted in accordance with the procedures specified in state law, title 30-A M.R.S.A. section 2691, subsection 3.
2. The Code Enforcement Officer (CEO) or their designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material (s)he deems appropriate for an understanding of the appeal.

F. Decisions of the Board of Appeals

1. The concurring vote of at least three (3) members of the Board of Appeals present at the public hearing shall be necessary to reverse any order, requirement, decision, or determination of the CEO or Planning Board, or to decide in favor of the applicant on any matter related to this ordinance, or to affect any variation in the application of this ordinance.
2. The Board shall decide all appeals within thirty (30) days after the hearing, and shall issue a written decision on all appeals.
3. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented, and the appropriate order, relief, or denial thereof. Notice of any decision shall be mailed or hand delivered to appellant, their representative or agent, the Planning Board, the CEO, and the Town Manager within seven

(7) days of the decision date.

4. Upon notification of the granting of an appeal by the Board of Appeals, the CEO shall immediately take such action as is in accordance with the conditions of the decision, unless the applicant needs a Conditional Use Permit.
5. Further appeal may be taken as permitted by 30-A M.R.S.A. section 2691(3)(G) from any decision of the Board of Appeals to the Somerset County Superior Court.

G. Stay of Proceedings

An appeal stays all legal proceedings related to the action appealed from unless the Code Enforcement Officer certifies to the Board of Appeals, after the notice of appeal has been filed, that by reason of facts stated in the certificate a stay would, in his opinion, cause irreparable harm to property or create a threat to the life or health of any person including the appellant. In such case, the Code Enforcement Officer, if legally authorized by State law or local ordinance, may seek injunctive relief or refer the matter to the Town Council for prosecution.

Article 4: Amendments

4.1 Initiation

A proposal for an amendment to this Ordinance may be initiated by:

- The Planning Board, by majority vote to the Board;
- The Town Council, by majority vote;
- An individual, through request to the Planning Board; or
- A written petition of a number of voters equal to at least ten percent (10%) of the voters in the last gubernatorial election.

4.2 Procedure

- A. When initiated by an individual, a proposal for an amendment shall be presented to the Planning Board in writing stating the specific changes requested. When a change in district boundaries is proposed, the application shall state the nature, extent, and location of the boundary change proposal, and shall be accompanied by a scale drawing showing the areas to be changed, with dimensions. A fee shall accompany the proposal to cover the costs of hearings and advertisements. The Planning Board shall make a written recommendation regarding passage to the Town Council prior to any action on the amendment by the Council.
- B. When initiated by petition or by Council action, the Board shall review the request and shall make a written recommendation regarding passage to the Council prior to any Council action on the amendment.
- C. Before recommending the amendment of an existing ordinance or map, the Planning Board must post and publish notice of the public hearing required in accordance with the following provisions.
 1. The notice shall contain the time, date, and place of hearing, and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the Town Office shall be adequate notice.
 2. The notice shall be posted in the Town Office at least thirteen (13) days prior to the hearing.
 3. The notice shall be published in a newspaper with general circulation within the Town. The date of the first publication shall be at least twelve (12) days prior to the hearing; the date of the second publication shall be at least seven (7) days prior to the hearing.
 4. Notice must be sent by regular mail to a public drinking water supplier if the area to be rezoned contains its source water protection area.
 5. In the case of a request to change district boundaries or the status of permitted or prohibited uses within a district, notice shall be sent by certified mail to all persons owning property within the area proposed to be affected, or within 200 feet of the property proposed to be affected. Notice shall include a map illustrating the proposed change. Notice shall be mailed at least fourteen (14) days prior to the hearing.
- D. Additionally, notice must be given if the proposed amendment within a geographically specific portion of the Town, has the effect of either prohibiting all industrial, commercial or retail uses where any of these uses is permitted or permitting any industrial, commercial or retail uses where any of these uses is prohibited. The notice must contain a copy of a map indicating the portion of the municipality affected by the proposed amendment.

For each parcel that is in or abutting the portion of the Town affected by the proposed amendment, the notice must be mailed by first class mail at least thirteen (13) days before the public hearing to the last known address of the person to whom property tax on each parcel is assessed. Notice also must be sent to public drinking water supplier if the area to be rezoned is within its source water protection area. The planning board shall prepare and file with the town clerk a written certificate indicating those persons to whom the notice was mailed and at what addresses, when it was mailed, by whom it was mailed and from what location it was mailed. This certificate constitutes prima facie evidence that notice was sent to those persons named in the certificate.

4.3 Adoption

Any amendment to this Ordinance shall be adopted by the Town Council.

Article 5: Non-Conformance

5.1 Purpose:

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section.

5.2 General 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, moved, or altered and no new lot shall be created unless in conformity with all of the regulations herein specified for the district in which it is located.

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.

This ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures.

5.3 Non-Conforming Structures

- A. A non-conforming structure may be repaired, maintained, and improved, but shall not be added to or expanded except as follows:
 - 1. The expansion does not itself exceed the maximum building height; and
 - 2. The expansion or accessory structure does not increase the existing, non-conforming lot coverage; and
 - 3. The expansion or accessory structure does not increase non-conformance of an existing setback.
- B. The placement of a foundation below an existing non-conforming structure shall not constitute an expansion of the structure provided that the foundation does not extend beyond the existing structure's footprint. The addition of uncovered, outside stairs or handicapped access facilities shall not constitute an expansion of the structure.
- C. A non-conforming structure damaged or deteriorated beyond practicable repair may be rebuilt provided that construction is completed within 24 months from the date of loss. The structure may not be enlarged in volume or area except in conformity with this Ordinance.

5.4 Non-conforming Uses

The use of land, buildings or structure, lawful at the time of adoption of this Ordinance, or of subsequent amendments of this ordinance, may continue although such use does not conform to the provision of this Ordinance, except as provided in the following paragraphs below.

- A. A non-conforming use which is discontinued for a period of twenty-four (24) consecutive months may not be resumed. The uses of the land, building, or structure shall thereafter conform to the provisions of this Ordinance.
- B. Whenever a non-conforming use is changed to allow use, the property shall thereafter conform to the provisions of this Ordinance, and the non-conforming use may not be resumed.
- C. A non-conforming use may be changed to another non-conforming use through the Administrative Review process. The Board of Appeals must find that the proposed use is equally or more appropriate to the district than the existing

non-conforming use, and the impact on adjacent properties is no more adverse than the impact of the former use.

In determining whether the impact of the proposed non-conforming use is no more adverse, the Board of Appeals shall consider changes in traffic, parking, noise, potential of nuisances likely to result from such change in use. The applicable standards and requirements of this ordinance shall apply to any request for a new non-conforming use.

- D. Expansions of non-conforming uses are limited to no more than a 25% increase in area or volume of the structure and/or land and shall require review by the Board of Appeals. The Board may approve the expansion request when it finds that the proposed expansion will not create a nuisance or negative impact upon adjacent properties that is greater than the existing non-conforming use.

5.5 Non-conforming Lots

- A. A non-conforming lot of record may be built upon provided that such lot is not contiguous with another lot in the same ownership, and all the provisions of this ordinance except lot size and frontage can be met, or a variance obtained.
- B. If two or more adjacent, non-conforming lots are in the same ownership of record, and if one or more of the lots contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional standards.
- C. If two or more adjacent, non-conforming lots are in the same ownership of record, and if a principal use or structure exist on each lot, the non-conforming lots may be conveyed separately or together, provided that lots that are not served by municipal sewer shall conform to the minimum Lot Size Law (12 M.R.S.A. §4807) and the State of Maine Subsurface Waste Water Disposal Rules.
- D. If two or more uses or structures exist on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the State Minimum Lot Size Law and Subsurface Waste Water Disposal Rules are followed. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

Article 6: Land Use Districts

6.1 Official Map

Districts are located and bounded as shown on the Official Map which is a made part of this Ordinance. Detail Maps "A" and "B" are hereby incorporated as visual aids in interpretation of the Official Map. The Official Map is separate and distinct from the Official Shoreland Zoning Map as required in the Town of Fairfield Shoreland Zoning Ordinance, and does not include shoreland zones designated therein.

A. Certification of Map

The Official Map is certified by the attested signature of the Town Clerk under the following words: "This is the Official Map of the Land Use Ordinance of the Town of Fairfield", together with the date of the adoption of this Ordinance. The official copy shall be located in the office of the Town Assessor.

B. Changes to the Official Map

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

"On (date), the Town Council enacted the following change: (insert brief description of the nature of change)."

Immediately beneath the entry the Town Clerk shall place his or her signature.

C. Replacement of Official Map

In the event that the Official Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions the Town Council shall authorize a new Official Map.

6.2 Establishment of Districts

A. Rules Governing District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Map the following rules shall apply.

1. Boundaries indicated as approximately following the center lines of streets, highways, rivers, or streams, or defined in terms of their distance from said center lines, shall be construed to precisely reference such center lines.
2. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines. In cases where a lot line shifts due to boundary line adjustments, the district boundary will shift accordingly.
3. Boundaries indicated as approximately following Town limits shall be construed to follow such limits. Boundaries indicated as following shorelines shall be construed to following such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.
- 4 Sources for the exact delineation of the Special Flood Hazard areas shall be the Town of Fairfield Flood Insurance Map.
- 5 Distances not specifically indicated on the Official Map shall be determined by the scale of the map.

B. Lots Divided by District Boundaries

When a lot divided by a district boundary, is two acres or less in area, the requirements of either district may be used, but shall apply to all portions of the lot. On lots larger than two acres, the district regulations shall be followed in each portion of the lot.

C. Where physical or cultural features existing on the ground vary from those shown on the Official Map, or other circumstances not covered by 6.2.A., the Board of Appeals shall interpret the district boundaries.

D. Designation of District

The following Land Use Districts are hereby established with symbols designated as follows:

RU	= Rural District
R	= Residential District
RR	= Rural Residential District
UR	= Urban Residential District
V	= Village District
MS	= Main Street District
C	= Commercial District
I	= Industrial District

6.3 Purpose of Districts

Each Land Use District designated in this ordinance is intended to further and promote the purpose of the Comprehensive Plan and the health, safety, and general welfare of its occupants.

A. Rural District (RU)

The purpose of the Rural District is to provide for a healthy agriculture, forest, and resource base for the town, while accommodating low density residential habitation and appropriate economic opportunity. Development activities in the district are intended to provide an outlet for local resources, and housing, employment, and service opportunities for residents of the District.

B. Residential District (R)

The purpose of the Residential District is to provide a substantial portion to the town devoted to accommodate medium-density residential development based on the potential for public water and sewer, as well as associated commercial development on collector roads.

C. Rural Residential District (RR)

The purpose of the Rural Residential District is to provide an area of prime development land suitable for low- density residential development. Commercial development in the area will be accommodated because of available land, but should be limited to that which will not impact the need for public facilities, the development capability of the land, or suitability of neighboring properties for residential use.

D. Urban Residential District (UR)

The purpose of the Urban Residential District is to preserve the quality and integrity of the Town's older residential neighborhoods and permit higher-density housing in the area closest to the town's public facilities and services, and within walking distance of our principal commercial area.

E. Village District (V)

The purpose of the Village District is to promote small-scale, mixed-use development characteristic of the town's three existing village neighborhoods. A healthy mix of locally-oriented commercial development and medium-density housing (or high-density where public water and sewer are available) is encouraged.

F. Main Street District (MS)

The purpose of the Main Street District is to promote commercial development of a density and location to serve local residence in the most central location and with efficient delivery of public services. The Main Street District should be considered a variation of the Commercial District, with flexible standards suited to the highly-developed, small-lot and mixed use character of the Town's existing downtown blocks. Infill and redevelopment to preserve the viability of the downtown is to be encouraged.

G. Commercial District (C)

The purpose of the Commercial District is to provide a generous public facility and land base on which to build on regional economic development opportunities. This district provides the necessary encouragements for locations of all forms of commercial and industrial development oriented to broadly based employment and services, including proximity to major highways and water and sewer infrastructure.

H. Industrial District (I)

The Industrial District is a specialized commercial district intended to provide for a variety of employment uses without an adverse effect on adjacent neighborhoods and with an attractive industrial environment including access to interstate interchanges and public water and sewer systems.

6.4 Land Use Activities Permitted by District

- A. The Land Use Table in this section is intended to designate the land use activities which will be permitted, and what level of permitting is required within each district. The Code Enforcement Officer shall determine which listed category a proposed activity falls within. **The North American Industry Classification System** (SIC codes) shall be used as a guide in the event of uncertainty. Appeals of the CEO's determination shall be classified as Administrative Review.

The Ordinance is intended to be sensitive to the size, scale, and impact of land use activities. Some uses listed below are subdivided by size of structure as a means of gauging impact. The general performance standards, Section 7 and 8, intend to regulate the impact rather than the existence of uses which might otherwise have been prohibited within the district. The letters appearing within the table indicate the level of permitting required, as follows:

- A = Allowed (Building Permit required for structures)
- PBR = Development Permit by Rule (see Section 3.3)
- C = Conditional Use (Planning Board) Permit Required (see Section 3.4)
- S = Subdivision Review Required under separate Ordinance
- X = Not permitted in this District

Land Use Activity	MS	V	UR	R	RR	C	I	RU
Open Space and Resource Uses								
Open parks, parking lots, cemeteries	C	C	C	C	C	C	C	C
recreational facilities	C	C	C	C	C	C	C	C
Extractive or filling operations	X	X	X	C	C	C	C	C

Land Use Activity	MS	V	UR	R	RR	C	I	RU
Agriculture and forestry operations	X	X	X	A	A	A	A	A
Campground	X	X	X	C	C	C	X	C
Residential uses								
one- and two-family homes	A	A	A	A	A	A	A	A
multiple dwelling units on a lot, See section 9.11	C/S	C/S	C/S	C/S	C/S	C/S	C/S	C/S
mobile homes	X	A	A	A	A	C	C	A
mobile home parks	X	S	X	S	S	S	S	X
home occupations	PBR	PBR	PBR	PBR	PBR	C	C	PBR
Commercial Uses								
General entertainment, retail and wholesale, by size (unless otherwise listed):								
under 10,000 ft ² building area	C	C	X	C	C	C	C	C
10,000-20,000 ft ² bldg. area	C	C	X	C	X	C	C	C
20,000 ft ² & larger bldg. area	C	X	X	X	X	C	C	X
Manufacturing by size (unless otherwise listed):								
under 25,000 ft ² bldg. area	C	C	X	X	X	C	C	C
25,000 ft ² & larger bldg. area	X	X	X	X	X	C	C	X
Gasoline and fueling stations	C	C	X	X	X	C	C	X
Farm stand	PBR	PBR	X	PBR	PBR	C	C	PBR
Bank	C	C	X	X	X	C	C	X
Professional. offices, see section 9.12	C	C	C	C	C	C	C	C
General offices & services	C	C	X	C	C	C	C	C
Call center	C	C	X	X	X	C	C	X
Adult business	X	X	X	X	X	C	X	X
Kennels, animal boarding	X	X	X	C	C	C	C	C
Ground water extraction	X	X	X	X	X	C	C	C
Waste/scrap storage/processing facility	X	X	X	X	X	C	C	C
Motor vehicle sales & service	C	C	X	X	X	C	C	C
Junkyard. auto graveyard	X	X	X	X	X	C	C	C
Warehousing	X	X	X	X	X	C	C	C
Sit-down restaurant	C	C	X	C	X	C	C	X
Snack bar	PBR	PBR	X	C	C	PBR	PBR	C
Bed & breakfast	C	C	C	C	C	C	C	C
Hotel, motel	C	C	X	X	X	C	C	X
Lodging house, guest house	C	C	C	C	C	C	C	C
College residence hall	X	C	X	X	X	C	C	C
Controlled substance facilities	C	X	X	X	X	C	C	X
Communication towers	C	C	X	X	C	C	C	C
Solar Energy Systems	X	X	X	X	C	C	C	C
Wind Energy Generation	X	X	X	X	C	C	C	C

Land Use Activity	MS	V	UR	R	RR	C	I	RU
Institutional Uses								
Public and private schools	C	C	C	C	C	C	C	X
Places of public assembly	C	C	C	C	C	C	C	C
Governmental facilities	PBR	PBR	X	X	C	C	C	C
Public utility structures	C	C	C	C	C	C	C	C
Essential facilities	C	C	C	C	C	C	C	C

B. Uses Not Listed

1. Any land use activity not listed in the Table of Land Uses shall be interpreted as follows:
 - a. If the proposed use is similar to a use in the Table requiring a Development Permit-by-Rule, it will require a Development Permit-by-Rule.
 - b. If the proposed use is similar to a use in the Table requiring a Conditional Use Permit, it will require a Conditional Use Permit.
 - c. If the proposed use is similar to a prohibited use, it shall be prohibited
2. In determining which uses are similar, the Code Enforcement Officer shall consider the following factors: size and appearance, impact on abutting properties, scale of operations, traffic, environmental impacts, and the purpose of the district. In no case will this provision be used to permit prohibited uses or to permit a use which does not comply with all dimensional requirements and performance standards of this Ordinance.

C. Accessory Uses

1. An activity which is incidental and directly related to the principal use of the property shall be considered a part of the principal use for the permitting requirements. Examples of such relation include warehouse space as part of a retail store or waste processing facilities as part of a manufacturing operation.
2. An activity which meets the definition of accessory use, but which has no direct relation to the principal use of the lot shall be subject to permitting requirements as if it were an unrelated use. Examples might be an auto repair shop on residential property, or a clothing store in a sawmill.

D. Expansions of Existing Uses

Unless the use is non-conforming, the expansion of an activity already existing at the effective date of this ordinance, or previously permitted under this ordinance, which would require a development permit-by-rule or conditional use permit, will require only a building permit if all of the following conditions are met:

- i. The expansion does not increase the developed area or building area by more than fifty (50) percent in any twelve (12) month period, and
- ii. the expansion does not require substantial demand for public water, sewer and other services, and
- iii. the expansion does not constitute a change of use.

E. Change of Use

A change of use, which is defined as conversion of an activity from one category in the Land Use Table to another, shall be required to obtain a new permit if the use requires a higher level of permitting, i.e. from an Allowed Use to a Permit by Rule or Conditional Use permit, or from a Permit by Rule to a Conditional Use. A new permit would be required even if no building or structural changes are proposed.

A change of use which would require the provision of more parking spaces, as determined in the Table in Section 8.2.C, must demonstrate to the satisfaction of the Planning Board that the parking lot has the capacity to absorb the added demand.

6.5 Dimensional Standards

- A. The table in this section contains dimensional requirements for each designated district. These standards shall be considered minimums, except where noted. See Section 6.1.B, below, for exceptions and adjustments. Relief from standards herein may be obtained only through the granting of a variance from the Board of Appeals.

DIMENSIONAL STANDARD	LAND USE DISTRICT							
	MS	V	UR	R	RR	C	I	RU
Minimum Lot area, (square feet) per Principal Structure	5,000	20,000	7,500	30,000	80,000	none	none	2 acres
Lot area per add'l dwelling unit or principal structure	1,200	10,000	5,000	20,000	40,000	none	none	2 acres
Lot coverage, maximum	none	30 %	30 %	10 %	10 %	30 %	50 %	10 %
Street frontage (sf) – sewer	50	n/a	75	75	n/a	75	75	n/a
-- unsewered	n/a	100	n/a	150	200	150	150	250
Front setback	10	15	15	25	50	25	25	50
Side & Rear Setback – principal structure	5	10	10	10	20	10	see Sec. 6.4.B.2	40
- accessory structures	none	5	5	10	10	10		10
Building Height, maximum	75	35	35	35	35	75	85	35

B. Adjustments to Dimensional Standards

1. Within the Main Street and Urban Residential Districts, the required front setback may be reduced to the average front setback of the two closest buildings if less than the listed requirement.
2. Within the Main Street and Urban Residential Districts, certain additional dwelling units may be added to pre-existing homes without additional lot size. See Section 9.11.A of this ordinance.
3. Within the Industrial District, if the activity will be adjacent to a commercial or industrial use, minimum side and rear setbacks shall be twenty-five (25) feet. If the activity will be adjacent to a residential use or district boundary, setback will be determined by the buffer provided – see Section 7.3 of this Ordinance.
4. Within the Main Street District, the side setback requirement is eliminated if an adjoining building is already built to the lot line.
5. Within the Main Street District, dwelling units located above the ground floor are not subject to the requirement for additional lot area.
6. Within the Residential District, the lot area per additional dwelling unit may be reduced to 10,000 square feet if the unit will be connected to public sewer.
7. Mobile home parks are exempt from the standards of this table, but must comply with the dimensional standards of 30-A MRSA §4358(3).

Article 7: Environmental and Neighborhood Protection Standards

7.1 Access to Back Lots

No permit required under this Ordinance shall be issued to erect any structure on a lot without frontage on a public or private road unless a means of access is constructed within a deeded right-of-way. The access shall be constructed to a minimum width of twelve (12) feet if serving one dwelling unit, and fifteen (15) feet if serving two dwelling units. It shall contain a minimum depth of fifteen (15) inches of bank-run gravel, with drainage ditches and culverts in locations recommended by the Public Works Director.

This section does not displace or reduce the requirements that apply to the creation of three or more lots or dwelling units subject to review under the Town of Fairfield Subdivision Ordinance.

7.2 Air Pollution

- A. No emissions of dust, ash, smoke or other particulate matter which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, which can cause soiling beyond the property boundaries is permitted. This shall not be construed to include the airborne by-products of conventional agricultural practices. Evidence that relevant state and federal regulatory requirements have been met shall be considered sufficient to meet this standard.
- B. The emission of smoke from any chimney, vent, stack, opening, or combustion process shall not exceed a density of Ringlemann #1.
- C. Odors shall be controlled so that they cannot be detected at the property line by an ordinary, healthy person.
- D. Vibration inherently and recurrently generated, and heat, shall be imperceptible without instruments at property boundaries.

7.3 Buffering and Screening

A. Parking Lots

Multi-family and commercial land use activities are subject to the following requirements for screening of parking lots: Except within the Main Street (MS) District, any parking lot that is located within twenty-five (25) feet of the street line shall be screened to reduce the distraction of parking lot activity on the street:

- 1. A minimum buffer width of fifteen (15) feet is required if the width consists of a landscaped mixture of deciduous and evergreen vegetation, selected for varying heights and adaptability to roadside conditions, and continuously maintained.
- 2. A visual screen of at least three (3) feet in height may be substituted for the landscaped buffer. The screening may consist of low walls, fences, berms, evergreen plantings or any combination of these.

B. Screening of Adjacent Properties

1. Setbacks or Screening for Industrial Uses:

- a. No screening shall be necessary if the distance between the developed area and the property line is at least one hundred (100) feet.

- b. A forty (40) foot setback is required if the width will consist entirely of natural woodland or change in elevation of at least ten (10) feet between the developed area and the property line.
- c. A twenty-five (25) foot setback is required if the width will consist of a planted vegetative screen dense enough to form an effective visual barrier.
- d. If no natural or landscaped buffer is obtainable, a structural visual and/or sound barrier must be erected.
- e. The Planning Board may require additional setback or screening requirements where the use abuts a residential property or district, based on the density of development and type of industry proposed.
- f. Additional setbacks or buffer requirements may apply to specific uses (see Article 9).

2. Screening of Commercial and Multi-family Development:

In cases where commercial or multi-family development is proposed adjacent to residential uses or a residential district boundary, the Planning Board may require a natural or landscaped buffer strip to visually screen the uses. Where no natural vegetation can be maintained, or due to unusual site conditions, the screening may consist of fences, walls, berms or combinations thereof. The buffering shall be sufficient to minimize the impacts of large buildings, loading and unloading operations, outdoor storage areas, parking lots, waste storage and similar commercial activities. The buffer areas shall be maintained and vegetation replaced to insure continuous year round screening.

- 3. Outside storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other article of salvage or refuse, shall be opaquely shielded to a height of eight (8) feet from abutting road or residential uses, regardless of distance. Where a potential safety hazard to children is evident, physical barriers sufficient to deter small children from entering the premises shall be provided and maintained in good condition.

7.4 Erosion and Sedimentation Control

Soil erosion during development shall be minimized through implementation of erosion control management practices. *Maine Erosion and Sediment Control Best Management Practices* (Maine DEP, March, 2003 or as revised) shall be used as a guideline. In addition, the following practices shall be followed:

- A. The stripping of vegetation, removal of soil, grading, or other development of the site shall be accomplished by limiting the duration of exposure and area of the site to be disturbed. Dust control methods shall be employed during dry conditions.
- B. Permanent vegetation and/or other erosion control and stormwater management (Section 7.11) measures should be installed prior to, or no later than six months following, completion of the construction.
- C. The top or bottom of a cut or fill shall not be closer than ten (10) feet to a property line unless otherwise mutually agreed to by the affected landowner and town. In no instance shall said cut or fill exceed a 3:1 slope.

7.5 Glare from Outside Lighting

Lighting may be used which serves security, safety, and operational needs but which does not impair the vision of a vehicle operator on adjacent streets. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists or pedestrians, or from adjacent dwellings. Intensity should not exceed one (1) foot candle at the property line, and under no circumstances be sufficient to create a nuisance to abutting residential properties.

7.6 Historic and Archaeological Resources

If any portion of the site has been identified, or is found or known to contain historic or archaeological resources, the development shall include appropriate measures for protecting these resources, including, but not limited to, modification of the proposed building and site layout and design.

7.7 Natural Resource Protection

A. Natural Features

Site development shall minimize, insofar as possible, disturbance of natural features. This shall be done through limiting tree removal, disturbance and compaction of soil, and grading and filling. No construction activity shall disturb natural features shown outside of the clearing limits designated on the site plan.

B. Habitat Protection

1. If any portion of the parcel has been identified as a critical natural area, or as containing threatened or endangered species of plants or animals, that area shall not be developed. Maps produced by the *Beginning with Habitat* Program shall be consulted as a guide. In addition, areas within 250' of these resources shall only be developed in a manner consistent with protection of these resources. The Planning Board may require a mitigation or management plan to be reviewed by the Natural Areas Program of the Department of Conservation prior to approval.
2. If any portion of the area to be developed includes areas shown on *Beginning with Habitat* program maps as Deer Wintering Areas, the developer shall consult with a qualified wildlife biologist on means to limit the impact of the development on the habitat, and incorporate those recommendations into his plan insofar as practicable.
3. If any portion of the development contains a wetland or vernal pool, as determined by the Town of Fairfield, the Maine DEP, or a certified soil scientist, the developer shall avoid, minimize, or mitigate impacts on the resource both during and after construction.

7.8 Noise

- A. Noise shall be kept within the limits of the Town of Fairfield Noise Ordinance. In general, the maximum permissible sound pressure level of any continuous, regular, or frequent source of sound produced by any activity shall be limited by the time period and receiving district listed below.

<u>Sound Pressure Level Limits (Measured in dB)</u>		
<u>District</u>	<u>7 a.m. - 9:30 p.m.</u>	<u>9:30 p.m. - 7 a.m.</u>
UR, R, RR, RU Districts	55	45
All other districts	60	50

- B. Notwithstanding the standards of subsection A, a venue providing outdoor entertainment activities may produce sound to the level permitted by the Fairfield Police Chief under a permit issued pursuant to Article 6, Section 7 of the Town of Fairfield Public Safety Ordinance.
- C. The level specified may be exceeded by 10 dB for no more than 15 minutes per day. Noise shall be measured by a meter set on the A-weighted response scale, slow response. The meter shall meet the American National Standards Institute (ANSI S1.4-1961) "Specification for General Purpose Sound Level Meters". Sound levels shall be measured at least 4 feet above ground at the property boundary.
- D. No person shall engage in construction activities on a site abutting any residential use between the hours of 9:30 p.m. and 7 a.m.

- E. The Planning Board, in reviewing Conditional Use applications for commercial activities abutting or within any residential district, may require additional measures for noise suppression.
- F. The following activities shall be exempt from these standards:
 - 1. Sounds emanating from construction and maintenance activities conducted between 7 a.m. and 9:30 p.m.
 - 2. Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and other emergency or public safety devices.

7.9 Outside Storage of Materials

All materials stored outdoors shall be isolated in such a manner as to prevent the breeding and harboring of insects, rats, or other vermin. This shall be accomplished by enclosures in containers, raising materials above ground, separation of material, prevention of stagnant water, extermination procedures, or other means. A plan for establishment and maintenance of appropriate measures shall be part of any required permit application.

7.10 Commercial Development in the Rural (RU) District

Just as commercial use is promoted in the Commercial (C), Village (V) and Main Street (MS) districts of the town, it is discouraged in the Rural (RU) district. In addition to other standards established in this ordinance, Rural (RU) District commercial uses are subject to the following conditions:

- 1. **Setback and Buffer.** A minimum of fifty (50) feet shall be maintained between the area or structure used for commercial purposes and any parcel boundary. A minimum of twenty-five (25) feet shall be in the form of a natural or planted buffer as described in Sec. 7.3.
- 2. **Size.** No new commercial structure may exceed 10,000 square feet, except in such cases where the applicant can demonstrate that traffic generated by the development will not exceed ten (10) percent of the existing Average Daily Traffic (ADT) of the road used for access. The total impervious surface used for commercial purposes shall not exceed ten (10) percent of the gross area of the parcel on which it is established.

The Planning Board may waive this standard only in the case where the commercial use is primarily related to and dependent on locally-produced farm or forest products, or gravel or other earth products mined on site.

- 3. **Traffic Impact.** The Planning Board or a qualified traffic engineer shall estimate the amount of traffic to be generated by the use. Except for uses waivable in sec. 2, above, no uses will be permitted which generate more than 300 vehicle trips per day onto Route 139, Route 201, or Route 104, nor more than 200 vehicle trips per day onto any other road in the district.
- 4. **Access Points.** All access points shall be designed and constructed at a point with a minimum of five hundred (500) feet sight distance in each direction along the public road. All driveways shall be paved for a distance of at least fifty (50) feet from the edge of the pavement of the public road.
- 5. **Signs.** Only one free-standing sign shall be permitted per parcel. The maximum size of the free-standing sign shall be thirty-two (32) square feet.

7.11 Storm Water Management

- A. All new construction shall be designed to reduce water runoff as nearly as possible to pre-development conditions in terms of volume, velocity, and location. Where possible, existing natural runoff control features, such as swales, terraces, and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of storm water.

- B. All applicants for Conditional Uses that will involve creation of more than 10,000 square feet of new impervious surface must prepare a Storm Water Management Plan. Storm water plans should show how the development will limit peak discharges from the site to predevelopment levels through a system of engineering structures and best management practices equivalent to those described in *Stormwater Management for Maine: Best Management Practices*, (DEP, January, 2006 or as revised). The use of low-impact development techniques, as described in Chapter 3 of the above-cited manual, is highly encouraged.
- C. Storm water runoff systems should be designed to facilitate aquifer recharge when it is advantageous to compensate for groundwater withdrawals or reduction in infiltration. Conversely, designs should avoid recharge where groundwater effects might be harmful.

7.12 Water Quality

- A. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous, or solid materials so as to contaminate, pollute, or harm any surface or ground water resources or cause nuisances, such as floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant or aquatic life. Evidence that State and Federal regulatory requirements have been met shall be considered sufficient to meet this standard.
- B. All above ground storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, shall be located on impervious material, and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 25-year storm, so that liquid shall not be able to spill onto or seep into the ground surrounding the storage area. In addition, such facilities shall be located at least 75 ft. from any lot line, or 40 ft. for underground storage. Storage tanks for "home heating oil" and diesel fuel, not exceeding 330 gallons in size, may be exempted from this requirement. Evidence that State and Federal regulatory requirements have been met shall be considered sufficient to meet this standard.

No commercial activity involving the production, use, or storage of hazardous or toxic chemicals or petroleum products shall be conducted except in accordance with a Spill Prevention and Management Plan developed at the time of application and approved by the Town of Fairfield Fire Chief. All materials shall be stored in a manner and location which is in compliance with appropriate regulations of the Maine Department of Public Safety and other Federal, State', and local regulations.

- C. Any development which will generate a demand of 2,000 gallons per day or greater provided by groundwater supplies shall not noticeably diminish groundwater quantity or quality beyond the boundaries of the property as a result of the project. The Planning Board will require evidence in the form of a report by a qualified hydrogeologist that this standard will be met.
- D. Public Water Supplies: Any land use activity which involves the development of a new public water supply shall develop a wellhead management plan demonstrating that the applicant has legal control over land use activities within a minimum three hundred (300) foot radius of the wellhead.

Article 8: Site Design and Public Facilities Impact Standards

8.1 Access to Public Roads

A. General Provisions:

Provision shall be made for vehicular access to the development and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the street and within the development, to avoid traffic congestion on any street and to provide safe and convenient circulation on public streets and within the development

1. The number of access points shall be minimized consistent with the need to attain safe and proper vehicular access to the site. Commercial access points shall avoid local residential streets wherever possible.
2. Where a commercial lot has frontage on two or more streets, access to the lot shall be provided from the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
3. The street giving access to the lot and neighboring streets which can be expected to carry traffic to and from the development shall have existing capacity or be improved to accommodate the amount and types of traffic to be generated by the proposed use. No development shall increase the volume of traffic to a level exceeding eighty (80) percent of the street's capacity nor reduce the street's Level of Service to "D" or below.
4. Provision shall be made for interconnecting driveway links to adjoining lots, when such driveway would enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a street.
5. All driveway entrances and exits shall be kept free from visual obstructions higher than three (3) feet above level within a triangular area defined by legs of 25 feet measured along the driveway and street lines in order to provide adequate vehicle sight lines.

B. Access onto State Jurisdiction Roads

A land use activity proposed to access onto roads under the jurisdiction of the State of Maine Department of Transportation (DOT) is required to obtain a DOT Driveway, Entrance, or Traffic Movement Permit, depending on the volume of traffic involved. If the proposed activity requires a Conditional Use Permit, the applicant shall provide permitting materials to the Town as evidence that this standard is met.

Roads in Fairfield under Maine DOT jurisdiction include: US 201 outside of the urban compact area, Maine Route 139 outside of the urban compact area, Maine Route 104, and Maine Route 23.

C. Access Standards

The standards of this section shall apply to all land use activities that will access roads not under the jurisdiction of Maine DOT, including town roads and state highways/state aid roads within the urban compact area.

1. **Sight Distances:** Driveways shall be designed and located to provide adequate sight distance in each direction. A sight distance of ten (10) feet for each mile per hour of posted speed limit shall be provided. On unposted roads, the minimum sight distance is two hundred fifty (250) feet within the urban compact area and three hundred fifty

(350) feet outside this area.

2 Number of Access Points

The following criteria shall limit the number of access points independent of frontage length.

- a. Developments estimated to generate less than ten (10) vehicle trips at the peak hour or 100 vehicle trips per day shall be limited to one two-way driveway onto a single roadway.
 - b. All other developments shall be permitted no more than two (2) two-way driveways or three driveways in total onto a single roadway.
3. Separation from Street Intersections: Separation of driveway from existing street intersections should be the maximum practicable, based on site constraints.
- a. Low volume driveways shall be located no closer than fifty (50) feet from an intersection, unless it is controlled by a traffic signal, in which case it shall be no closer than one hundred (100) feet.
 - b. A two-way driveway which will serve a volume of one hundred (100) or more vehicle trips during its daily peak hour of operation shall be located no closer than two hundred (200) from an intersection, unless the intersection is controlled by a traffic signal, in which case it shall be no closer than five hundred (500) feet.
 - c. A single-lane (one-way) driveway may be located closer than fifty (50) feet of an intersection only if traffic is prevented from entering into or egressing out of the opposing lane of the road by a raised median or other device.
 - d. Distances shall be measured from the point of tangency (PT) of the intersection curb radius to the point of tangency of the driveway curb.
4. Separation from lot lines: Except in the Urban Residential (UR) District, no driveway entrance shall be located within ten (10) feet of the side lot line of an adjoining lot, unless the driveway is designed to serve both lots.
5. Driveway Design

- a. All driveways, including commercial entrances, with a volume of fewer than one hundred (100) vehicle trips during its daily peak hour of operation shall meet the following design requirements:
 - 1) Angle of Entry. Driveways shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 75 degrees on arterials, or 60 degrees on all other roads.
 - 2) Curb Radius. The curb radius shall be between 5 feet and 24 feet, with a preferred radius of 10 feet.
 - 3) Driveway Width. The width of the driveway shall be between 12 feet and 24 feet, as measured in the throat area behind the radius.
 - 4) Slope. From the street line, the driveway should slope at 2 percent or less for a distance of 25 feet, followed by a slope of 6 percent or less for at least 50 feet.
- b. Commercial driveways with a volume of greater than one hundred (100) vehicle trips during its daily peak hour of operation shall meet the following design requirements:
 - 1) Angle of Entry. Driveways shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 75 degrees.
 - 2) Entering and exiting lanes shall be separated by a raised median. The median shall define a throat length of adequate dimensions based on the traffic volume, but in no case less than forty (40) feet.

- 3) Width. Driveway widths shall be between twelve (12) feet and twenty-six (26) feet on each side of the median, depending on whether they are single-lane or two-lane. "Right turn only" lanes established by a channelization island shall be between sixteen (16) feet and twenty (20) feet in width.
- 4) Curb Radius. Without channelization islands for right-turn movements, the curb radii shall be between 30 feet and 50 feet. With a channelization island, the curb radii shall be between 75 feet and 100 feet.
- 5) Slope. From the street line, the driveway should slope no more than 2 percent for a minimum of 100 feet.
- 6) Appropriate traffic control signage shall be erected at the intersection of the driveway and the street and on medians and islands.

D. Construction Materials/Paving

1. All driveways entering a curbed street shall be curbed with materials matching the street curbing. Curbing shall be placed around all raised islands or medians.
2. All driveways shall be paved with bituminous concrete pavement within the street right-of-way. All commercial driveways regardless of driveway volume shall be paved with bituminous concrete pavement within thirty (30) feet of the street right-of-way.

8.2 Off-Street Parking

A. General

No use shall be permitted, and no structure shall be constructed or enlarged, unless adequate vehicle parking is provided without necessity for vehicular parking on the street, in accordance with the following requirements.

B. Parking Lot Design Criteria

1. Access Restrictions
 - a. Parking areas with more than two (2) parking spaces shall be designed so that vehicles cannot back into the street.
 - b. Vehicle access points shall be designed in conformance with section 8.1, above.
 - c. All parking spaces shall be at least five (5) feet from any side or rear lot line, unless more is required for buffer yards.
 - d. Required parking spaces will not be located within the right-of-way of the public street.
2. Interior Vehicular Circulation
 - a. Major interior travel lanes should be designed to allow continuous and uninterrupted traffic movement, with particular reference to the necessity of avoiding slowing vehicles on the public road. A throat length adequate to serve the volume of traffic shall be provided. No parking spaces will access directly from the throat area.
 - b. In parking lots in excess of one hundred (100) spaces, raised islands with vegetation shall be used to identify circulation patterns and restrict driving movements diagonally across parking aisles. Island placement shall be sufficient to divide the lot into two (2) or more smaller cells of no more than 100 spaces each. Landscaped islands shall be no less than fifteen (15) feet of vegetative width containing a landscaped mixture of deciduous and evergreen vegetation, selected for adaptability to roadside conditions and continuously maintained, except

that a pedestrian walkway and drainage facilities may be placed within the area, provided that it occupies no more than one-half the width.

- c. All spaces shall be immediately accessible from an aisle without the necessity of moving other vehicles.
- d. Parking aisles should be oriented perpendicular to stores or businesses for easy pedestrian access and visibility.
- e. Any layout that utilizes vehicular access service ("drive-up") windows shall provide a minimum of five (5) car lengths of queuing space on the incoming side of the initial stopping point. This requirement may be increased by the Planning Board for certain types of development. The required queuing space shall be designed so that it shall not interfere with parking and circulation on the remainder of the site.

3. Layout of Parking Stalls and Aisles

- a. Parking stalls shall be a minimum of nine (9) feet in width by eighteen (18) feet in length for conventional arrangement. Stalls designated for handicapped use shall be a minimum of twelve (12) feet in width by eighteen (18) feet in length and marked appropriately. Stalls may be angled, provided aisles are designated one-way, and each stall contains the minimum rectangular dimensions. Stalls for parallel parking shall be no less than nine (9) feet in width by twenty-two (22) feet in length.
- b. In paved parking areas painted stripes shall be used to delineate parking stalls. Stripes should be a min. of 4" in width. Where double lines are used, they should be separated a min. of 10" on center. Unpaved parking lots are not required to delineate spaces on the ground, but the site plan must show adequate parking and circulation design and the single space reserved for handicapped parking must be identified with an appropriate sign.
- c. Two-way aisles shall be a minimum of twenty-two (22) feet in width. One-way aisles shall be a minimum of sixteen (16) feet in width.
- d. Bumpers and/or wheel stops shall be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.
- e. The provision of oversize spaces shall be permitted for activities that ordinarily serve oversize vehicles, such as recreational vehicles, travel trailers, delivery trucks or tractor-trailer trucks.

4. Paving Required

All parking lots and access drives which would require ten (10) or more parking spaces under the table in Section 8.2.C.1, below, shall be paved with hot bituminous concrete or an equivalent surfacing over a gravel sub-base at least eighteen (18) inches in thickness, and shall have appropriate bumper or wheel guards where needed.

C. Numerical Requirements

1. Basic Requirements for Parking Space

Adequate off-street parking shall be provided according to the use proposed. The table below shall be interpreted as a guide, subject to adjustments in Subsections 2 through 5, following. The provision of spaces for vehicles owned or operated by the business, such as construction vehicles, tractor-trailers, and vehicles displayed for sale, shall not be included in the calculations.

# of Spaces	Land Use Activity
Places of Residence or Accommodation--spaces per room or dwelling unit	
1 / 3	Dedicated Retirement Home, Nursing Care Facility
1	Hotel, Motel, Bed & Breakfast, College Residence Hall
2	Multi-family buildings
Places of Public Assembly--spaces per seat based on maximum seating capacity	
1 / 4	Theater, with fixed seating
1 / 3	Church
1 / 2	Restaurant, Convention Center, Meeting Hall, Grange, Bottle Club
Places of Commerce and Industry--spaces per 1,000 sq.ft. of gross floor area	
1/2	Warehousing, including self-storage
1 1/2	Industrial and Manufacturing Facilities, wholesaling
3	Grocery stores over 5,000 sq.ft., Offices, professional, and personal services, except as noted.
3.5	Retail sales except as noted
5	Banks, Medical & Dental Offices, Call Centers, Fitness Clubs, Child Care
6	Snack bars (6 minimum)
Public and Institutional Facilities--spaces per 1,000 sq.ft. of gross floor area	
2	Elementary School
4	School, except as noted, Museum, Art Center, Public Office
6	Commuter College, Hospital
Miscellaneous--criteria as specified	
1 per 1,000 sf	Indoor Sports Facility (Tennis, Soccer etc.)--no spectators
1 per 4 seats or attendees, based on max. capacity	Stadiums, Arenas, Racetracks, and other spectator sport venues
30 per acre	Mini-golf, Go-Carts, and Outdoor Amusements
5 per lane	Bowling Alley
3 per service bay plus 1 per 10 vehicles displayed	Motor Vehicle Sales & Service

2. Conditional Modification of Requirements: The Planning Board is permitted to modify these standards as minimum requirements, under the following circumstances:
 - a. By up to 10 percent, based upon a showing by a qualified traffic engineer that similar uses under similar circumstances generate greater or less demand.
 - b. In the Main Street (MS) District only, the Planning Board may permit any use to provide up to 100 percent of its parking requirement through the cooperative development and maintenance of a municipal or public parking lot or structure. Alternatively, the Board may reduce the required parking by up to 30 percent, upon the condition that provided off- street parking not be restricted to patrons/tenants of the development.
 - c. The following listed uses may satisfy up to 50 percent of their parking requirement through a shared-use agreement with a non-listed use: Churches, fraternal meeting halls, Eating & Drinking Establishments, Theaters, Fitness Clubs, Bowling Alleys.
 - d. A development may include as a portion of its parking requirement the provision of parking spaces not located on the same lot provided a) that the spaces are located within 200 feet of the property line, b) that a written agreement is in place for long-term use of the spaces, and c) that the spaces would not be among the minimum required for a pre-existing or already-permitted use.

3. Impact on Physical and Environmental Resources. Parking lots shall not be excessively large, or contain an area more than 25 percent greater than that required by these standards.
4. Handicapped Access: At least one space, plus one additional space for every twenty-five (25) required, shall be designated as available for handicapped persons, and shall be located nearest the primary entrance. If more than two (2) spaces are required, spaces shall be separated by a five (5) foot wide access aisle. All spaces shall be identified by pavement markings and signs mounted at least five (5) feet above ground surface.
5. Mixed Uses:
 - a. Any portion of an activity or use which is listed separately on the table in Section 8.2.C.1 shall be considered as a separate use for the purpose of calculating spaces if it exceeds in area or seating capacity 25 percent of the overall area of the building or development.
 - b. If an Eating and Drinking Establishment provides both indoor and outdoor seating, the parking requirement shall be calculated according to the total seating capacity.
 - c. If a mixed use consists of any residential use combined with any commercial use, no parking shall be required of the residential use unless it consists of more than 67 percent of the total development area.

D. Standards for Loading Bays

1. Areas for loading and unloading goods shall be located entirely on the same lot as the building or use to be served so that trucks, trailers, and containers for loading or storage shall not be required to stand or maneuver upon any public street, *except* that in the Main Street (MS) District, unloading to pre-existing buildings may be by way of the street for time periods specified in the Town of Fairfield Public Safety Ordinance, Article 1, Section 5. No loading bays shall be on the side of the building facing the principal street frontage, except for approved industrial activities in the Industrial (I) District.
- 2: The following minimum off-street loading bays or berths shall be provided and maintained in the case of new construction, alterations, and changes of use for the purpose of retail, wholesale, warehouse and industrial operations.

Building Size:	Loading Bays Required:
5,0001 to 20,000 sq. ft.	1 bay
20,001 to 80,000 sq. ft.	2 bays
80,001 to 130,000 sq. ft.	3 bays
130,001 to 190,000 sq. ft.	4 bays

Each 100,000 square feet over 190,000 square feet requires one (1) additional bay.

3. Loading bays shall be a minimum dimension of twelve (12) feet by fifty-five (55) feet and be designed and delineated so as not to interfere with traffic flow or other parking spaces.

8.3 Signs

A Permit by Rule (Section 3.3 of this ordinance) is required for the erection of any new sign or sign structure or when an existing sign is replaced by a larger one. This section sets out standards for sign location, size, and placement in addition to those of the Maine Traveler Information Services Act, 23 M.R.S.A. §1901 et seq.

A. In the RU, RR, and UR Districts, only the following signs shall be permitted.

1. One free-standing sign may be displayed. In RR and UR Districts, the sign shall be limited in square footage to 1/20 (5 percent) of the linear street frontage of the property, or nine (9) square feet, whichever is larger. In the RU District, the sign shall be limited to thirty-two (32) square feet regardless of frontage.

2. In the UR District only, no sign shall be internally illuminated. External illumination shall be limited to low-intensity fixtures aimed directly at the sign.

B. In the R, I, and C Districts, the following restrictions shall apply.

1. Signs shall be permanently affixed to the land or building except as provided in section 8.3.E below. The total area of signage in square feet shall not exceed 1/3 (33 percent) of the linear street frontage of the property or, on corner lots, the longest single street frontage of the property.
2. Free-standing signs (not building-mounted) shall be subject to the following requirements:
 - a. Signs shall be placed no closer than 10 feet from the edge of the street right-of-way. No sign shall be placed in or on the sidewalk.
 - b. No portion of any free-standing sign shall extend more than twenty-five (25) feet above the level of the ground on which it is located.
 - c. No single free-standing sign shall exceed 50 percent of the allowable sign area for the lot.
 - d. No more than two free-standing signs shall be permitted per lot or business.
 - e. Within an approved commercial subdivision, property owners may pool their permissible sign area to erect one free-standing sign at the entrance to the development.
3. Building-mounted signs shall be subject to the following requirements:
 - a. There shall be no more than three building-mounted signs permitted, except in the case where there are multiple lessees of a building, in which case, there shall be permitted no more than one sign per lessee.
 - b. If mounted on the building in such a way as to overhang a pedestrian walkway or public sidewalk, no portion of the sign shall extend beyond five (5) feet of the building face to which attached, nor within ten (10) feet vertical distance of the sidewalk.
 - c. If the proposed sign is to be "flush-mounted", it shall not extend or project more than twelve (12) inches from the building wall. Cut out letters should not project more than six (6) inches from the building wall.
 - d. No portion of a sign structure shall extend higher than ten (10) feet above the cornice line of any building.

C. In the V and MS Districts, special provision must apply to accommodate existing development and higher development densities. In general, the provisions of Section 8.3.B shall apply, except as follows:

1. The total signage area in square feet shall not exceed 1/2 (50 percent) of the linear street frontage of the property.
2. No free-standing sign shall be placed in the public right-of-way or sidewalk, except that temporary "sandwich board" signs may be placed on sidewalks during normal business hours.

D. Changeable Signs: as defined 23 MRSA §1914.11A(1)

1. Changeable signs, including digital displays, are permitted only in the following Districts: I, C, MS, and V. Only a single changeable sign is permitted per lot of record.
2. The display on a changeable sign may be changed no more often than once every ten (10) seconds. If adjacent to pre-existing residential development, the changing feature shall be discontinued outside of business hours.
3. The displayed message shall not scroll, flash, dissolve, or be otherwise animated. No streaming or moving images

shall be displayed on the sign. No sign shall contain external moving parts or other elements that may distract drivers.

4. The message display area shall not exceed thirty-two (32) square feet in area, or fifty (50) percent of the area of the sign, whichever is larger.
5. Changeable signs shall not be placed so that the message is readable from the interstate or associated ramps.

E. Temporary signs

Temporary signs and banners may be posted for a period of not more than twenty (20) days within any ninety (90) day period. The owner shall remove said signs upon termination of the event. No temporary sign or banner shall be placed in or above the right-of-way of a public street, except by written permission of the Town Manager.

F. The following are not considered signs subject to these provisions:

1. Flags and insignia of any government.
2. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
3. Integral decorative or architectural features of building unless they consist of letters, trademarks, moving parts, or moving or flashing lights.
4. Signs placed for the purpose of guiding traffic and parking on private property.
5. Signs advocating for an election issue or candidate.

G. Existing, non-conforming signs may be maintained but shall not be replaced except by conforming signs. Upon change of ownership of a business premises, all non-conforming signs must be removed or replaced by conforming signs.

H. A sign which advertises a business which is no longer in operation, or which poses a risk to public safety by virtue of being unmaintained shall be removed by the owner, agent, or person responsible for the building or site upon which the sign is located. The Code Enforcement Officer is responsible for identifying such signs and providing written notice to the owner of record in accordance with section 3.8.A of this Ordinance.

8.4 Solid and Liquid Wastes

A. The development shall provide for the disposal of all solid wastes on a timely basis and in an environmentally safe manner. The Town shall not be responsible for pickup or transfer of wastes.

B. Sanitary and Liquid Wastes

1. When not serviced by the public sewerage system, the approval of a permit shall be subject to presentation of a completed site evaluation form (HHE-200) which evidences adequate soil conditions for wastewater disposal.
2. Industrial or commercial waste waters may be discharged to public sewers only and in such quantities and/or qualities as to be compatible with operations of the Kennebec Sanitary Treatment District. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter will not be accepted. Wastes may require pretreatment at the industrial or commercial site in order to achieve this standard. The Planning Board shall consider the impact of particular industrial or chemical wastes or by-products upon the system's facilities (in terms of volume, flammability, or toxicity) and may require the development to dispose of such wastes elsewhere, in conformance with applicable State and Federal regulations. The Board may require the applicant to specify the amount and exact nature of all industrial and chemical wastes to be generated by the proposed operation.

This standard shall not apply to facilities that treat their own wastewater requiring an Effluent Discharge Permit from the Maine Department of Environmental Protection.

8.5 Utilities

Public utility lines feeding commercial structures shall be placed underground wherever practicable.

8.6 Public Safety and Emergency Services

- A. Commercial buildings in the Industrial (I) and Commercial (C) Districts covering an area of more than ten thousand (10,000) square feet shall provide clear access for emergency vehicles on all sides of the building(s). Clear access consists of a minimum of twenty feet of unobstructed width with a surface level and firm enough to support fire equipment. The access shall be considered developed area and not included in any calculations for buffer areas.
- B. At a minimum, the requirements of the editions of NFPA – 1 and NFPA – 101 in use at the time of construction must be met for all construction, alteration, or demolition. Key box security systems shall be installed, as required by Article 1 of the Fairfield Fire Prevention and Protection Ordinance. Truss construction markers as required under Article 4 of said ordinance shall be properly displayed at all entrances.
- C. All fire lanes shall be installed and maintained as required by Article 5 of the Fairfield Fire Prevention and Protection Ordinance. The Fire Chief may require temporary fire lanes and/or building access routes during construction, alteration, or demolition work.
- D. The applicant must submit evidence that proposed fire protection measures are adequate, in the form of a written statement from the Fire Chief that the proposed development will not exceed the capacity of the department to provide adequate protection. The Fire Chief may recommend additional protective improvements, including but not limited to fire ponds, dry hydrants, fire lanes, separation of flammable wastes, or sprinkler systems.
- E. If the development will use or store items that because of their toxicity or flammability would require specialized training or equipment, the developer will be responsible for providing that training or equipment to the fire department.
- F. The development must be designed to provide security consistent with the capacity and practices of the town police department. The applicant shall provide a written statement from the Police Chief approving any proposed security measures.

Article 9: Design Standards Applicable to Specific Activities

9.1 Adult Businesses

The purpose of this section is to permit the establishment of adult businesses, as defined, in such manner and location as will protect the general welfare and preserve the community standard.

- A. Physical Separation: In districts where permitted, adult businesses shall not be located within 250 feet of a residential district boundary, nor within 500 feet of an existing residential, educational, or religious structure, nor within 500 feet of any other adult business.
- B. Exterior Appearance: No sexually explicit message, materials, images, or activity shall be visible outside the building.

9.2 Automobile Graveyards and Junkyards

Automobile graveyards and junkyards shall be subject to the provisions of 30-A MRSA, sec. 3751-3760, as amended "Automobile Graveyards and Junkyards", including separate licensing provisions. In addition to the requirement for a Conditional Use Permit under this Ordinance, an automobile graveyard or junkyard is required to obtain a permit under the Fairfield Automobile Graveyard and Junkyard Ordinance and meet the performance standards therein. The applicant will show that the performance standards in both ordinances will be met prior to receiving a Conditional Use Permit.

9.3 Campgrounds and Tenting Grounds.

A. General

- 1. A campground must be constructed on a lot containing a minimum of ten (10) acres. All RV or trailer sites and all structures shall be located at least one hundred (100) feet from any property line.
- 2. Campsites shall be laid out and screened in such a manner that none are within view from public roads, neighboring residences, or approved subdivision lots. Any combination of natural woodland, evergreen planting, landscaping earthen berms, or solid fencing may be used to screen this activity, when sites would otherwise be visible from the locations described above.
- 3. No mobile home or manufactured housing unit shall be permitted within any campground, temporary or otherwise, except for a single unit for the use of the owner or manager.
- 4. Tent sites and sites for trailers and RVs shall be laid out so that the overall density does not exceed fourteen units per acre for tents or eleven units per acre for trailer or RV sites, unless a lower density is required under the Town of Fairfield Shoreland Zoning Ordinance.
- 5. The minimum setback from the normal high-water mark shall be 100 feet for all recreational vehicles, tents, or other temporary or permanent structure.
- 6. No campsite shall be located within the 100 year floodplain.

B. Parking and Circulation

- 1. Adequate parking plus maneuvering space shall be provided for each RV, tent, or shelter site. Individual spaces shall be laid out so that there shall be a minimum of 75 feet between RV sites and all public roads located inside the boundaries of the campground.

2. Vehicular access shall be provided onto a hard-surfaced road adequate for the volume and type of traffic likely to be generated. All roads shall be constructed to the standards for a private right-of-way as per the Town of Fairfield Subdivision Ordinance. No vehicle parking shall be permitted on the roadway.

C. Health and Safety

1. Trash receptacles shall be provided at convenient locations throughout the campground. The park management shall dispose of refuse from said containers at least once every three days.
2. A campground shall provide water and sewage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Wastewater Disposal Rules. At least one toilet, one shower, and one lavatory shall be provided for each sex for every ten (10) campsites. All RV and trailer sites shall be equipped with water and sewage hook-ups, and connected to approved distribution or disposal systems.
3. Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations. Twenty-Four (24) hour emergency service (e.g. telephones) shall be provided.

D. Planning and Review

Campgrounds are subject to review under the Town of Fairfield Subdivision Ordinance, with particular attention to the requirements for habitat protection and retention of natural vegetation. Campgrounds within shoreland zoned areas are under the jurisdiction of the Fairfield Shoreland Zoning Ordinance.

9.4 Communication Towers

New or expanded communication towers are subject to review as a Conditional Use and the standards of this section, unless exempted under subsection C of this section. Maintenance and repair of existing facilities and equipment and addition of antennae does not require review unless there is a change in height or coverage of impervious surface of the facility. A building permit may be required.

A. Location

1. Communication Towers are prohibited in the UR, and R Districts. This shall not be construed as prohibiting building-mounted antennae in those districts.
2. Consideration shall be given to use of existing towers (co-location) whenever practicable. Applicants for permits for new facilities shall state why location on an existing tower is not feasible.
3. Towers shall be located no closer than one-half the height of the tower from all property lines and dwelling units.

B. Design and Installation

1. No tower shall exceed one hundred ninety five (195) feet in height, as measured from the tip to the ground surface. A tower in the MS or V Districts shall not exceed seventy-five (75) feet in height.
2. The applicant for a new tower will provide the Planning Board with a radio frequency propagation survey demonstrating that the proposed tower height is needed.
3. All new and replacement towers shall be of the monopole design.
4. No tower shall be approved unless at least one (1) wireless service provider has already committed occupancy. New towers shall be designed with capacity for co-location.

5. A new or expanded tower shall be placed on a lot owned by the operator of the facility or leased for a period of not less than ten (10) years.
6. New towers shall be constructed with materials and colors that match or blend in with the surrounding natural or built environment to the maximum extent practicable.
7. All towers and supporting structures must comply with structural standards established by the Electronic Industries Association/Telecommunication Industries association. Compliance with these standards shall be certified by a registered professional engineer.
8. Any communication tower that is unused or out of service for a period of eighteen (18) continuous months shall be considered abandoned and shall be removed as soon as possible. The Town of Fairfield is hereby authorized to contract for removal of the tower and assess the cost of said removal as a lien against the property.

C. Exempt Installations

1. Facilities for communication by local, county, state or federal emergency and public safety organizations.
2. Amateur radio stations as licensed by the Federal Communications Commission.
3. Facilities accessory to an existing dwelling unit.
4. Facilities intended to be in operation for no more than one hundred eighty (180) days.

9.5 Eating and Drinking Establishments

- A. All permit applications shall state the maximum seating capacity of the establishment, including any planned outdoor seating areas. Any expansion or enlargement over the stated capacity shall require a new permit.
- B. Any establishment located within 500 feet of an existing public sewer line shall connect with the sewer system at the expense of the developer. When subsurface wastewater disposal is proposed, completed soil evaluation forms (HHE-200) shall be submitted. All proposed subsurface disposal systems shall meet the Maine State Subsurface Wastewater Disposal rules.
- C. Separate restroom facilities for male and female patrons complying with the Maine State Plumbing Code shall be provided on the premises.
- D. Eating establishments with little or no indoor seating capacity ("snack bars") must still provide for traffic flow and parking such that movement on the public road is not impeded.

9.6 Extractive or Filling Operations

- A. Scope and Exclusions: Except for the exclusions listed below, the removal or placement of topsoil, rock, sand, gravel, and other earth materials is prohibited in the UR, V, and MS Districts and is a Conditional Use in all other districts:
 1. The removal, placement or transfer, of less than one hundred (100) cubic yards of material from or onto any lot in any twelve (12) month period.
 2. The removal, placement or transfer, of material incidental to construction, alteration, or repair of a building or in the grading and landscaping incidental thereto; and
 3. The grading or shifting of material incidental to construction, alteration, or repair of a public or private way or essential facility.

B. Submission Requirements

1. All applications shall show sufficient information to determine compliance with this ordinance and applicable State Laws, and accompanied by all required State Permits or Licenses and the following information:
 - a. A site plan with topography indicating not greater than five (5) foot contour intervals, related to US Geodetic Survey data; the location and slope of the grades, existing and as proposed upon completion of the extraction operation; and detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits; together with a written statement of the proposed operating procedure and working hours.
 - b. A plan for reclamation of the site upon completion of the operation.
 - c. Evidence of adequate insurance against liability arising from the proposed operations, to be maintained throughout the period of operation.
 - d. Written approval of routes to be used by the Fairfield Director of Public Works.
2. The Board may require the additional submission of a hydrogeological study to determine the effects of the proposed activity on groundwater movement and quality within the area.

C. Performance Standards

1. No part of any excavation shall be permitted within 150 feet of any property or street line, except for drainage ways. Natural vegetation shall be left and maintained on the undisturbed land.
2. If any standing water accumulates, the site shall be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of insects.
3. No slopes steeper than three (3) feet horizontal to one (1) foot vertical (3:1) shall be permitted at any site unless a fence at least six (6) feet in height is erected to limit access to such locations.
4. Topsoil and subsoil suitable for purposes of revegetation shall, to the extent required for restoration, be stockpiled for use in restoring the location after an extraction operation has ceased. Stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this ordinance.
5. The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure, as provided in section 7.4 of this Ordinance.
6. Lagoons shall be designed to avoid creation of fish trap conditions. The applicant shall submit written approval from the Maine Department of Environmental Protection, and/or the Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.
7. The hours of operations at any site shall be limited as the Planning Board deems advisable to ensure compatibility with neighboring residences.
8. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Director of Public Works. No mud, soil, sand, or other materials shall be allowed to accumulate on a public road from loading or hauling vehicles.
9. All access/egress roads leading to or from the site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least one hundred (100) feet from such public ways.
10. No equipment debris, junk, or similar material shall be permitted on a site. Any temporary shelters or buildings

erected for such operations and equipment used in connection therewith shall be removed within thirty (30) days following completion of operations.

11. Within six (6) months of the completion of operations at any site of any one or more locations within any site, ground levels and grades shall be established in accordance with the submitted reclamation plans, including the following:
 - a. All debris, stumps, boulders, and similar materials shall be removed or disposed of in an approved location or, in the case of solid, non-organic, non-toxic matter, may be buried and covered with a minimum of two (2) feet of soil.
 - b. The extent and type of grading material shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
 - c. Storm drainage and water courses shall leave the site at the original natural drainage points. The amount of drainage at any point will be significantly increased.
 - d. Sufficient topsoil or loam shall be retained or obtained to cover all disturbed areas to a depth of four (4) inches. Areas shall be reseeded and properly restored to a stable condition.
12. No slope greater than three (3) feet horizontal to one (1) foot vertical (3:1) shall be permitted.

D. Existing Operations

1. Any extraction operation in lawful operation at the time this section becomes effective, may operate for a period of five (5) years from the effective date without a Conditional Use Permit. Within six (6) months of enactment of this ordinance, the Code Enforcement Officer shall provide written notice to the owners of all property which, to the best of their knowledge, contain existing operations, informing them of the requirements of this section.
2. Discontinuation of any existing operation shall result in the loss of pre-existing status for the operation. Discontinuation is defined as being the excavation, processing, or storage of fewer than one hundred (100) cubic yards of material, for any consecutive one-year period of time.

9.7 Ground Water and/or Spring Water Extraction and/or Storage

- A. Permit Required. The removal of more than two thousand (2,000) gallons per day of ground water or spring water for commercial purposes is a Conditional Use in all districts.
- B. Submission Requirements. The application shall include the following information:
 1. Statement of the quantity of ground water planned to be extracted at full capacity, expressed as the annual total, the maximum monthly rate by month, and the maximum daily rate;
 2. A letter from the Maine Department of Health and Human Services approving the facility as proposed where the Department has jurisdiction over the proposal;
 3. Where appropriate, letters from the Department of Environmental Protection when the Site Location Law is applicable or a discharge permit is required.
 4. A hydrogeological report by a certified professional hydrogeologist or registered professional engineer. This report shall include:
 - a map of the aquifer feeding the spring(s), well(s), or excavation(s) from which water is to be extracted in sufficient detail to support a calculation of sustained yield during a drought with a probability of one in ten (10) years.

- an estimate of any potential interaction between this aquifer and adjacent water supplies.
- Impacts on the water table in the aquifer and wells within 1,000 feet of the proposed extraction facilities shall be assessed.

C. Performance Standards

1. The quantity of water to be taken from water sources will not substantially lower the water table beyond the property lines, cause undesirable changes in ground water flow, or cause unacceptable ground subsidence, during a drought with a probability of occurrence of once in ten (10) years.
2. The proposed facility shall not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.
3. Safe and healthful conditions shall be maintained within and about the proposed use.
4. The operator shall make monthly operating records of the quantity of water extracted, stored, and removed from the site, available to the Code Enforcement Officer or a designee.
5. Nothing in this procedure, and no decision by the Planning Board shall be deemed to create groundwater rights other than those rights which the applicant may have under state law.

9.8 Home Occupations

Home occupations are permitted as a Permit by Rule in all districts except C and I Districts, where they are a Conditional Use. A business enterprise which cannot meet these standards must be classified and permitted according to the Land Use Table. A home occupation in existence prior to the effective date of this ordinance is not required to get a permit or comply with these standards unless the activity expands in size, scope, or traffic demand.

- A. The use of a dwelling unit or property for a home occupation shall be clearly incidental to and subordinate to the residential use of the property and surrounding residential uses.
- B. A home occupation may not alter the residential character of the structure or neighborhood, or change the character of the lot from its principal use as a residence.
- C. The home occupation shall be carried on wholly within existing structures. Any outside storage or display of materials or products shall be screened from view from the abutting properties and street. The display for sale of motor vehicles or outside storage of vehicles awaiting repair is expressly prohibited as a home occupation.
- D. If carried on within a unit of a multi-family building or mobile home park, only resident family members may be employed and there shall be no signs posted or retail sales conducted.
- E. All parking shall be located to the rear or side of the principal structure, but not within the required yard setbacks.
- F. One non-illuminated sign, no larger than six (6) square feet may be erected on the premises.
- G. The sale of products shall be limited to those items which are crafted, assembled, or substantially altered on the premises, to catalog items ordered off the premises by customers, and items not crafted on the premises but which are accessory and incidental to a service which is provided on the premises.
- H. A home occupation shall not involve the use or storage of heavy commercial vehicles, including construction and delivery vehicles.
- I. A home occupation shall not create greater traffic than normal for the area in which it is located or generate more than forty (40) vehicle trips/day.

- J. A home occupation shall not generate noise, vibration, smoke, fumes, odor, heat, light, electrical interference, or other effects which can be detected beyond the boundaries of the property, or in the case of a multi-family unit, beyond the walls of the unit.

9.9 Kennels and Veterinary Clinics

- A. Structures or pens for housing or containing the animals shall be located not less than one hundred (100) feet from the property line.
- B. All pens, runs, kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties.
- C. The owner or operator shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.
- D. Temporary storage containers for any wastes containing or including animal excrement shall be kept tightly covered at all times and emptied no less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.
- E. If outdoor animal "runs" are created, they shall be completely fenced in, and shall be paved with cement, asphalt or a similar material to provide for cleanliness and ease of maintenance.
- F. Incineration devices for burning excrement-soaked waste papers and/or animal organs or remains shall be located a minimum distance of four hundred (400) feet from any property line, and shall have a chimney vent not less than thirty-five (35) feet above the average ground elevation. Approval shall be obtained from the Maine Department of Environmental Protection for the proposed incinerator.

9.10 Mobile Homes in the Village (V) and Urban Residential (UR) Districts

All new installations of manufactured housing units in the Village (V), and Urban Residential (UR) Districts shall conform to the following design standards:

- i. All units must be a minimum of fourteen (14) feet in width and contain at least seven hundred fifty (750) square feet of living space;
- ii. All units shall have a residential-style siding and roof pitch of at least three (3) in twelve (12);
- iii. All units shall have wheels and axles removed and be placed upon a permanent foundation consisting of a frost wall, a paved pad with skirting, or a full basement.

9.11 Multiple Dwelling Units on a Lot

This section applies to multiple dwellings units on a lot, regardless of tenure (condominium or rental) or number of individual buildings. Certain forms of multiple dwellings may also be subject to the Fairfield Subdivision Ordinance.

- A. Apartments within a pre-existing home: Notwithstanding the provisions of this ordinance regarding minimum lot area per dwelling unit, a home built prior to April 14, 1999 and located in the Urban Residential (UR) or Main Street (MS) Districts may accommodate a single additional dwelling unit without the requirement for additional lot size.
 - 1. No exterior structural changes may be made to the home to accommodate the additional unit, except for the addition of exterior stairways as additional means of egress.
 - 2. Each apartment shall be equipped with approved, hard-wired smoke and CO detectors.

3. Sufficient parking shall be provided on site, as provided in Section 8.2.C of this Ordinance.
4. The site shall not be required to meet the screening requirements of Section 7.3 of this Ordinance for multi-family developments. The Planning Board may require a fence or wall to be constructed as screening based on specific conditions of the lot.
5. Each apartment must consist of a minimum of four hundred (400) square feet of living area and shall meet all plumbing code and fire safety requirements for a dwelling unit

B. Multi-family Housing: The construction of three or more units within a building, where permitted, shall comply with the standards of this subsection. Multi-family housing includes college residence halls.

1. A multi-family housing unit is also a subdivision; however, the planning board may choose to perform the subdivision and conditional use reviews jointly.
2. Multi-family buildings shall meet all of the dimensional standards of Section 6.5 of this Ordinance, as well as performance standards in Articles 7 and 8.
3. If a multi-family building is not located on a public sewer system, the developer shall reserve an undeveloped area of sufficient size and suitability for a replacement subsurface wastewater disposal system.
4. A multi-family development of four (4) or more units shall designate a minimum of three thousand (3,000) square feet of open space for the recreational use of the tenants. The open space may be developed with benches, tables, walkways, playground equipment or similar structures.

C. Mobile Home Parks: Mobile home parks are permitted in all districts except Main Street (MS), Urban Residential (UR), and Rural (RU). In all district where permitted, the establishment of a mobile home park shall be reviewed as a subdivision.

1. Notwithstanding the provisions of this Ordinance, dimensional standards for mobile home parks shall be as provided in 30-A MRSA §4358(3) "Regulation of Mobile Home Parks."

9.12 Overnight Accommodations

A. All facilities intended for short-term stay and designed and constructed without individual kitchen facilities (except for Bed and Breakfast) are subject to the following requirements:

1. No part of any building shall be closer than sixty (60) feet to the front lot line, rear lot line, or either side line of such lot. Buffer requirements of Section 7.3 of this Ordinance shall be observed.
2. Except as provided in subsections B and C, below, each rental unit shall contain not less than two hundred (200) square feet of habitable floor area enclosed by walls and roof exclusive of any adjoining portions of roofed or covered walkways; each sleeping room shall not be less than twelve by fifteen (12X15) feet horizontal dimensions, exclusive of bath; and each unit shall include private bathroom facilities..
3. For each building or lot, one dwelling unit may be provided for a resident owner, manager, or other responsible staff person.
4. If not located on a public sewer system, the developer shall reserve an undeveloped area of sufficient size and suitability for a replacement subsurface wastewater disposal system.
5. Each rental room shall be equipped with approved, hardwired smoke and CO detectors.

B. Bed and Breakfast facilities shall comply with the following:

1. The application for permit shall include a scale drawing of the lot showing the location of: existing buildings, existing and proposed parking, and existing and proposed sewage disposal system.
 2. In addition to parking required by section 8.2.C of this ordinance, two spaces shall be provided for the dwelling unit.
 3. There shall be at least one (1) bathroom for the rental rooms, in addition to the bathroom for the dwelling unit.
 4. Each rental room shall have not less than one hundred twenty (120) square feet.
- C. Guest Houses, lodging houses, boarding houses, room rentals shall comply with the following standards:
1. Guest houses are generally considered to be conversions from pre-existing single-family homes. A "new" guest house is technically a motel. Therefore, there should be no new external construction to increase the size of the structure to accommodate the use other than necessary to meet fire egress or handicapped accessibility codes.
 2. The water and sewage facilities meet all existing laws and codes for the increased demand.
 3. One parking space shall be provided for every room to be rented, in addition to two for the original dwelling unit.
- D. Hotel, motel or cottage units with self-contained kitchen and toilet facilities or otherwise designated as housekeeping accommodations are considered to be dwelling units and shall meet all applicable standards of this ordinance. In addition, the creation of three or more units may be subject to review under the Town of Fairfield Subdivision Ordinance.

9.13 Professional Offices in the Urban Residential (UR) District

Within the UR District, professional offices may be established, subject to the following standards:

- A. New professional offices shall be located only within existing buildings, in order to retain the essential character of the neighborhood. No use projected to generate more than sixty (60) vehicle trips per day will be permitted.
- B. Exterior alterations shall be minimized and shall be similar to the original architectural style of the building. In special situations where a building is extremely dilapidated and structurally unsound, the Planning Board may approve plans to replace the existing building with a new building designed to be consistent in scale and appearance with other buildings in the neighborhood. The Board may seek the recommendation of a recognized architectural authority before granting permission to demolish.
- C. Parking for professional offices shall be located to the side or rear of the building, and shall be screened from view from abutting residential properties.
- D. All outdoor lighting shall be directed in such a manner as to avoid "overspill" onto abutting residential properties, or glare into the street.

9.14 Recreational Facilities

All public and private recreation facilities shall meet the standards below, as appropriate:

- A. There shall be provided adequate off-street parking for the anticipated maximum attendance at any event.
- B. If the facility is an outdoor venue, containers and facilities for rubbish collection and removal shall be provided, as well as sufficient sanitary facilities. Fixed-location sanitary facilities shall comply with the Maine Plumbing Code.

- C. Adequate screening, buffer area, or landscape provisions shall be built, planted, or maintained, to protect adjacent residences from adverse noise, light, dust, smoke, and visual impact.
- D. The facility shall not create a traffic hazard due to the intermittent nature of peak traffic flow. The Police Department shall review the location and access and provide its comments to the Planning Board prior to or at the public hearing.

9.15 Schools, Colleges, Churches, Fraternal Organizations, and Non-Profit Clubs

Public and private schools, colleges, religious and fraternal organizations, and non-profit clubs shall meet the provisions below.

- A. Buffering and screening shall be provided as if a commercial use in accordance with the provisions of Section 7.3 of this ordinance.
- B. No principal building shall be closer than fifty (50) feet from a property line.

9.16 Storage Containers

Storage containers placed into use after the effective date of this ordinance may only be located and utilized in accordance with the following standards. Containers placed into use prior to the effective date of this ordinance may remain but shall be replaced in accordance with the standards of this section if deemed unsafe or hazardous by the Code Enforcement Officer.

- A. Temporary Use. A storage container may be used for no more than sixty (60) days per calendar year under the following conditions:
 - 1. An application to use a temporary storage container shall be submitted to the Town prior to the commencement of the intended use. The application shall be processed as a Permit by Rule.
 - 2. No more than three (3) containers shall be located on a property;
 - 3. Containers shall be placed within the required front and side yard setbacks, unless the Code Enforcement Officer determines in writing that such placement is not feasible;
 - 4. Containers shall not displace parking required to be provided for the land use on the lot and will not be placed so as to create vehicle or pedestrian hazards;
 - 5. Containers shall be structurally sound, with no visible rust or holes, sharp edges, damaged sheathing or other defects which could endanger public health or safety;
- B. Non-temporary Storage Containers. Storage containers intended to be in use for longer than sixty (60) days shall be used under the following conditions:
 - 1. Containers are considered to be accessory to the principal use of the property and subject to permitting as such. If there is no development of the property at the time the containers are placed, the use is presumed to be warehousing and regulated accordingly.
 - 2. Maximum dimensions for a storage container are fourteen (14) feet in width, fifty five (55) feet in length, and nine (9) feet in height.
 - 3. Containers shall comply with all required setbacks and other dimensional standards.
 - 4. Containers shall not displace parking required to be provided for the land use on the lot and will not be placed so as to create vehicle or pedestrian hazards;

5. The exterior sheathing of the container will contain no signs or advertising material;
6. Containers shall be structurally sound, with no visible rust or holes, sharp edges, damaged sheathing or other defects which could endanger public health or safety

9.17 Solar Energy Systems

The standards in this section apply to all Solar Energy Systems (SES) except those that are accessory to a previously-established principal use:

1. Layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory(ETL),Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with MUBEC, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.
2. The owner of a SES shall provide the CEO written confirmation that the public utility company to which the SES will be connected has been informed of the customer's intent to install a grid connected system. The owner shall provide a copy of the final inspection report and connection approval from the utility company to the CEO prior to the issuance of a certificate of use and occupancy for the SES.
3. All on-site utility transmission lines and plumbing shall be placed underground. If, however, the applicant can demonstrate that this would not be feasible, this requirement may be waived.
4. The SES shall be situated to eliminate concentrated glare onto nearby structures or roadways.
5. The SES shall be set back a minimum of 35 feet from the property lines. Ground mounted SES shall be screened from any adjacent property that is residentially zoned or used for residential purposes. The screen shall consist of a vegetative barrier which provides a visual screen. In lieu of a planting screen, a fence that provides visual screening may be used.
6. The surface area of the arrays of a ground mounted SES, regardless of the mounted angle of any solar panels, shall not be considered impervious surface for purposes of a stormwater management plan.
7. All ground mounted SES rated in excess of ten (10) kw shall be completely enclosed by chain link fencing that consists of a minimum eight (8) foot high fence with a locking gate. A clearly visible warning sign shall be placed at the base of all pad-mounted transformers and substations and on the fence surrounding the SES informing individuals of potential voltage hazards.
8. Access drives shall be maintained to allow for maintenance and emergency management vehicles. At a minimum, drives must be twelve (12) feet wide and surfaced with a fifteen (15) inch thick gravel base.
9. The SES must be properly maintained and be kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare.
10. The SES owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. A key box shall be used to allow emergency service access. All means of shutting down the solar energy system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

9.18 Waste and Scrap Storage and Processing

Waste, scrap storage, and processing facilities are subject to the provisions of 38 MRSA, chapter 13 Waste Management, including separate licensing provisions, and shall meet the following standards in addition to those in Articles 7 and 8 of this ordinance:

A. Location

1. No waste scrap storage or processing facility shall be located in a sand and gravel aquifer or an aquifer recharge area, as mapped by the Maine Geological Survey or a qualified hydrogeologist.
2. No waste, scrap storage, or processing facility shall be located within the one hundred (100) year floodplain, as it appears on federal Flood Insurance Rate Maps on file at the town office.

B. Supplementary Submission Requirements

1. All applications for a Conditional Use Permit shall in addition to the basic submission requirements, be accompanied by all required state permits or licenses and the following information:
 - a. A written statement of the proposed operating procedure and working hours.
 - b. Evidence of adequate insurance liability arising from the proposed operations, to be maintained throughout the period of operation.
2. The Planning Board may require the additional submission of a hydrogeological study to determine the effects of the proposed activity on groundwater and quality within the area.

C. Performance Standards

1. The hours of operation shall be limited as the Planning Board deems advisable to ensure operational compatibility with nearby residences.
2. Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
3. Safe and healthful conditions shall be maintained within and about the proposed use.

9.19 Wind Energy Generation Facilities (WEGF)

A. Supplementary Submission Requirements

In addition to the submission requirements of section 3.4.B, applications for Wind Energy Generation Facilities (WEGF) shall contain the following information:

- i) A map and description of the route to be used for transporting personnel and materials to the development site;
- ii) Documentation of pre- and post-construction sound levels at the property boundaries;
- iii) A plan and description of connections to the utility grid, if one is proposed, together with the form of a connection agreement between the applicant and the utility;
- iv) A decommissioning plan, together with a proposal for a performance guarantee for decommissioning costs.

B. General Standards

The following standards apply to both residential and commercial WEGF.

1. Setback: The tower of the WEGF shall be placed a horizontal distance no closer than 1.5 times the height of the tower to any adjoining property boundary, easement or right-of-way, or to any residential structure other than that of the applicant.
2. Height: The WEGF tower structure shall not exceed 175 feet in height (excluding blades). The purpose of this limitation is to forestall the Federal Aviation Administration (FAA) requirement for the tower to be lighted. If at some time in the future, the FAA requirement is amended, the planning board may modify this requirement.
3. Sound Levels: No WEGF shall produce sound at any property boundary that exceeds thirty-five (35) decibels (dBA) between dusk and dawn, and forty (40) decibels (dBA) at other times, or five (5) decibels (dBA) above pre-construction levels at any time, whichever is greater. Permissible sound levels may be exceeded during short-term (12 hours or less) weather events.

No WEGF shall produce low-level (dBC) sound above background levels at any property boundary.

4. Design:
 - a. Any tower stays or guy wires shall have safety coverings extending from the ground to at least fifteen (15) feet above ground level.
 - b. The WEGF shall be equipped with both manual and automatic overspeed controls.
 - c. The WEGF shall be designed and constructed to prevent disruption to radio, television, cable, wireless, or internet connections or similar signals beyond the site.
 - d. The tower shall contain no step-bolts or ladder structure within twenty-five (25) feet of the ground surface, to deter unauthorized access.
 - e. All materials in the WEGF shall be non-reflective to minimize visual disruption.
 - f. Electrical wiring associated with the WEGF shall be installed underground, except as needed to transition to the utility grid. Transition points shall be enclosed in rigid conduit.
 - g. The tower shall not be lighted unless required by the FAA. If the FAA approves or requires technological upgrades to lighting systems, they shall be installed by the operator within one hundred eighty (180) days of the effective date of the rule.
 - h. The minimum distance between the lowest point of a blade in a horizontal-axis system and the ground shall be fifteen (15) feet. The minimum distance between the lowest point of a blade in a horizontal-axis system and any other structure shall be eight (8) feet.

C. Standards for Facilities over 50 kw

1. Shadow flicker: Shadow flicker shall be limited to the site of the facility at all times.
2. Use of Public Roads: The Applicant shall identify all state and local public roads to be used to transport equipment and parts for construction, operation or maintenance. The applicant shall retain a third-party engineer acceptable to the Town to document road conditions prior to construction and again thirty (30) days after construction is complete or as weather permits. Any road damage caused by the Applicant or its contractors shall be promptly repaired at the Applicant's expense.

The Applicant shall demonstrate, to the satisfaction of the Town that it has financial resources sufficient to comply with this requirement. The Town may require the Applicant to post a performance guarantee in order to ensure such compliance.

3. Access: All ground-mounted electrical and control equipment and all access to the WEGF tower shall be labelled and secured to prevent unauthorized access.
4. Wildlife Habitat: The design and operation of the WEGF shall minimize interference with flying wildlife patterns to the extent possible. The creation of artificial habitat for raptors or raptor prey shall be minimized. Bird flight diverters shall be installed on any guy wires.
5. Decommissioning/Abandonment: The applicant shall provide a plan for removal or replacement of the WEGF at such point as it is no longer in operation. "No longer in operation" means that the facility is not producing electricity into the grid. The decommissioning plan shall show that work to remove or replace the WEGF shall commence within six (6) months of the time when it is no longer in operation and conclude within two (2) years. The plan shall estimate costs and provide a means for paying that cost.

If a WEGF is not in operation for a period of at least six (6) months, the Town may declare the facility abandoned and shall order its removal. If the facility has not been removed within ninety (90) days of such order, the Town shall contract to remove the tower and assess the cost to the property owner, said cost to become a lien against the property.

6. Emergency Services: The wind turbine shall be equipped with an appropriate fire suppression system to attack fires within the nacelle portion of the turbine. The applicant shall develop a coordinated emergency response plan in coordination with the fire chief and Somerset County Sherriff's Office. The plan shall include means and equipment necessary to respond to emergencies at ground-level facilities on the site.

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

Administration by the Efficiency Maine Trust

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE

PREAMBLE

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

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

WHEREAS, the Town of Fairfield wishes to establish a PACE program, allowing owners of qualifying property located in the PACE district who so choose to access financing for energy savings improvements to their property through PACE loans administered by the Trust or its agent; and

WHEREAS, PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) desire and intend to assist and cooperate with the Trust in its administration of the municipality's PACE program; and

NOW THEREFORE, the Town of Fairfield hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

1. Purpose

By and through this Chapter, the Town of Fairfield declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property

Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

2. Enabling Legislation

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

ARTICLE II - TITLE AND DEFINITIONS

1. Title

This Ordinance shall be known and may be cited as "the Town of Fairfield Property Assessed Clean Energy (PACE) Ordinance" (the "Ordinance")."

2. Definitions

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

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

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

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

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

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

2. Municipality. "Municipality" shall mean the Town of Fairfield.

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

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

5. PACE district. "Pace district" means the area within which the Town of Fairfield establishes a PACE program hereunder, which is all that area within the Town's boundaries.

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

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

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

9. Qualifying property. "Qualifying property" means real property located in the PACE district of the Town of Fairfield.

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

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

ARTICLE III - PACE PROGRAM

1. Establishment; funding.

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

2. Amendment to PACE program.

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

ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

1. Standards adopted; Rules promulgated; model documents.

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

ARTICLE V – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

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

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

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

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

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

2. Liability of Municipal Officials; Liability of Municipality

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

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

Adopted by the Town Council on June 15, 2011.


Edward Finch, Chairman



Ernest Canelli III, Vice-Chairman


Harold Murray, Secretary


Donald Giroux


Andrew York

ATTEST, A True Copy:


Tracey L. Stevens, Town Clerk

PROPERTY ASSESSED CLEAN ENERGY (PACE) ADMINISTRATION CONTRACT

THIS Property Assessed Clean Energy (PACE) Administration Contract (the "Contract") is entered into this 8th day of June, 2011, by and between the Town of Fairfield, a municipal corporation duly organized and existing under the laws of the State of Maine whose mailing address is PO Box 149, 19 Lawrence Avenue, Fairfield, Maine 04937 (the "**Municipality**") and the **Efficiency Maine Trust**, a legal entity and instrumentality of and a body corporate and politic under the laws of the State of Maine (the "**Trust**"). The foregoing also are referred to herein collectively as the "**Parties**" or singly as "**Party**."

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

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

WHEREAS, the Municipality has adopted a PACE Ordinance; and

WHEREAS, the Parties wish to establish their respective responsibilities in the administration of the PACE Program.

WITNESSETH:

NOW, THEREFORE, for and in consideration of the covenants and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS. Capitalized terms used in this Contract shall have the meanings given them in 35-A M.R.S.A. §10153 unless otherwise specified herein. In addition, these terms are defined as follows:

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

3. MUNICIPALITY'S RESPONSIBILITIES.

3.1. Education and Outreach Programs. The Municipality agrees to adopt and implement an education and outreach program so that owners of property in the Municipality are made aware of home energy saving opportunities, including the opportunity to finance Energy Saving Improvements with a PACE Loan.

3.2. Conformity with Home Energy Savings Program. The Municipality agrees to conform its PACE Program to the requirements contained in the Home Energy Savings Program.

3.3. Acceptance and Disbursement of Funds. The Municipality agrees to accept PACE funds from the Trust and to disburse PACE funds back to the Trust as needed to satisfy the conditions of the federal grants and to allow the Trust to fund and administer a uniform system of municipal PACE Programs throughout the State.

3.4. Assistance and Cooperation. The Municipality agrees to cooperate with the Trust in the administration of the Municipality's PACE Program, including but not limited to, providing information about applicant properties including property tax payment and lien status, taxable value of residential properties in town, and providing reasonable and necessary aid to the Trust for required data collection, recordkeeping and reporting functions relative to the PACE Program in the PACE District, and providing reasonable and necessary support to the Trust's PACE loan, PACE Assessment, and billing and collection functions.

3.5. Conformity. If standards or rules and regulations are adopted by any State or federal agency subsequent to the Municipality's adoption of a PACE Ordinance or participation in a PACE Program and those standards or rules and regulations substantially conflict with the Municipality's manner of participation in the PACE Program, the Municipality, should it desire to continue its participation in the PACE Program, will be required to take necessary steps to conform its participation to those standards or rules and regulations.

4. TERM.

4.1. This Contract is for a period of three (3) years and shall automatically be renewed for additional periods of three (3) years unless either Party provides the other with ninety (90) days' advance written notice of intent not to renew this Contract.

5. TERMINATION.

5.1. Either Party may terminate this Contract for convenience by providing the other with ninety (90) days' advance written notice of termination. On and after the date of termination, the Municipality no longer will have a PACE Program administered by the Trust except for those PACE Loans already secured by PACE Mortgages as of the date of termination.

6. LIABILITY.


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

7.5 Governing Law, Remedies. This Contract shall be governed by and construed in accordance with the laws of the State of Maine. Except as otherwise agreed by the Parties in writing, all disputes, claims, counterclaims and other matters in question between the Municipality and the Trust arising out of or relating to this Contract shall be decided by a Maine court of competent jurisdiction.

7.6 Assignment; Successors and Assigns. This Contract may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably conditioned, delayed or withheld. This Contract shall benefit and be binding upon the Parties hereto and their respective permitted successors and assigns.

7.7 Non-Waiver. Except as expressly provided in this Contract, the failure or waiver, or successive failures or waivers on the part of either Party hereto, in the enforcement of any paragraph or provision of this Agreement shall not render the same invalid nor impair the right of either Party hereto, its successors or Contract permitted assigns, to enforce the same in the event of any subsequent breach thereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Property Assessed Clean Energy (PACE) Administration Contract, to be executed by their duly authorized representatives as of the date first set forth above.

MUNICIPALITY
By: 
Signature
Joshua J Reny
Print Name
Its: Town Manager (Title)

EFFICIENCY MAINE TRUST
By: _____
Signature

Print Name
Its: _____ (Title)

PAID SEXUAL CONTACT ORDINANCE

SECTION 1 PURPOSE

The purpose of this ordinance is to prohibit certain acts for paid sexual contact within the Town of Fairfield in order to reduce the likelihood of criminal activity, moral degradation and disturbances of the peace and good order of the community, and to protect the health, safety and welfare of the community. This ordinance is adopted under the Town's home rule powers.

SECTION 2 DEFINITIONS

(a) Sexual contact means any touching of the genitals or anus, directly or through clothing, or other covering, for the purpose of arousing or gratifying sexual desire.

(b) Pecuniary benefit means any direct or indirect payment of money or any other object of value.

SECTION 3 SEXUAL CONTACT FOR PECUNIARY BENEFIT PROHIBITED

(a) Engaging in, or agreeing to engage in, or offering to engage in sexual contact in return for a pecuniary benefit to be received by a person engaging in the sexual contact or by a third person is prohibited.

(b) Providing or agreeing to provide a person for purposes of engaging in sexual contact in return for a pecuniary benefit to be received by a person engaging in the sexual contact or by a third person is prohibited.

(c) Causing or aiding another person to engage in sexual contact in return for a pecuniary benefit to be received by a person engaging in the sexual contact or by a third person is prohibited.

(d) Agreeing to pay for sexual contact is prohibited.

(e) Any person in control or possession of any place or premises, who knowingly permits the place or premises to be used as a site for any activity prohibited in subsections (a), (b) (c) *or* (d) of this ordinance commits a violation of this ordinance.

SECTION 4 PENALTIES

The violation of any provision of this article shall be punished by a fine of not less than five hundred dollars (*\$500*) nor more than one thousand (\$1,000) for each offense. Each act of violation and everyday upon which any such violation

shall occur shall constitute a separate offense. In addition to such penalty, the town may enjoin or abate any violation of this article by appropriate action, including but not limited to revocation of any town license, following a hearing for a premises or business in which sexual contact for pecuniary benefit is transacted.

SECTION 5 SEVERABILITY

If any section, phrase, sentence or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

If the Town prevails in an action to enforce this ordinance, or an action to enjoin or abate any activity prohibited by this ordinance, it shall be awarded its reasonable attorneys fees, expenses and costs incurred in the action. All fines recovered hereunder accrue to the municipality.

Public Hearing Held October 15, 1996

Adopted October 15, 1996

TOWN OF FAIRFIELD PROPERTY MAINTENANCE ORDINANCE

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SECTION 1 AUTHORITY

This ordinance is enacted pursuant to State law, Title 30-A Section 3001.

SECTION 2 TITLE

This ordinance shall be known as the “Property Maintenance Ordinance of the Town of Fairfield, hereinafter referred to as “this ordinance”.

SECTION 3 PURPOSE

The provisions of this ordinance shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for the maintenance of structures and the grounds of property in order to protect public health, public safety, property values, and to prevent nuisance conditions.

SECTION 4 REQUIRED MAINTENANCE

All grounds and structures or parts thereof shall be maintained to prevent unsafe, unsanitary and/or nuisance conditions (according to the nuisance definition found in State law Title 17, Section 2802 and as shown in the Appendix) and to avoid any adverse effect on the value of adjoining properties.

SECTION 5 GROUNDS & PROPERTY MAINTENANCE STANDARDS

The grounds and the exterior of structures or parts thereof shall be kept in good repair and free from any accumulation of rubbish or garbage and any unsafe or unsanitary conditions. Such conditions may include:

Grounds

- Exterior accumulation of refuse, household trash, junk, discarded plumbing, heating supplies, old or scrap copper, brass, rope, rags, batteries, paper/cardboard trash, rubber, waste and all scrap iron, steel, other scrap ferrous or nonferrous material, debris, scrap lumber and building materials, inoperable machinery or part thereof, glass, used furniture, used household items and unused and inoperable appliances.
- Any places where one or more old discarded, worn out junked, unserviceable vehicle (s), except in an approved licensed junkyard or auto repair business permitted under the Town of Fairfield Automobile Graveyard & Junkyard Ordinance and the Land Use Ordinance.
- Materials intended for the private use of the property owner may be stored on the property as long as such material is screened from the public way and from abutting properties (see Appendix A) and is not in violation with State Laws. Private use does not include items intended for resale.

- Upon the closure of a business activity, the owner of said business or activity, or property owner, if different from the business owner, shall, within 30 days, remove from public view all signs identifying the business or activity that has vacated the premises.

Exterior of Structures

- All fences and barriers shall be kept in good repair.
- All exterior walls, roofs, chimneys, smokestacks, stairs, decks, porches, and balconies shall be structurally sound and maintained in good repair.
- All projections from structures, such as awnings, signs, fire escapes, and ductwork shall be properly anchored and maintained in good repair.
- All handrails and guards shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- All exterior doors, door assemblies and hardware shall be maintained in good condition.
- All exterior wall and roof surfaces of any structure used for human occupancy shall be protected so as to prevent wind, rain, and snow penetration.
- Basement foundations shall be enclosed so as to prevent entry of vermin.
- All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

SECTION 6 MAINTENANCE AFTER CASUALTY DAMAGE

Within a period of 90 days after casualty (see Definitions) damage to property grounds or structures, the owner shall cause or contract (see Definitions) for the repair or restoration of damaged areas and the demolition of any areas not to be repaired and the removal of all debris connected therewith. The Code Enforcement Officer may grant an extension under certain hardship conditions (see Section 8).

Dangerous Building or Property

A building or property is deemed to be dangerous if, in the judgment of the Building Inspector, it presents a serious threat to life from any of the following conditions:

1. Structural failure;
2. Fire damage, explosion, or toxic gases;
3. Poisonous contamination or biological infection of water, flood damage, air or the physical environment;
4. Any use or condition of the building or property from which death or physical injury to the occupants or public could be reasonably expected if occupancy or entry to the building or property is allowed.

If the Building Inspector finds a building or property to be dangerous, a written notice of violation shall be given to the property owner and violator if different, to immediately secure such building or property to prevent unauthorized entry. If the owner fails to secure their building or property within seven (7) days of said order, or when immediate action is required to protect public safety, the Building Inspector shall cause the building or property to be secured

and shall take any other necessary protective measures including, but not limited to, installing sidewalk and street barricades. All expenses incurred by the town to secure the dangerous premises and to assure the public safety affected thereby, shall be repaid to the Town of Fairfield by the owner or owners of the dangerous building or property within thirty (30) days after demand for repayment to the town or a special tax may be assessed against the property and collected in the same manner as other municipal taxes are collected.

The procedure for demolition of buildings shall be in accordance with Title 17 §2851 et seq., as amended, Dangerous Buildings.

SECTION 7 RESPONSIBILITIES

Owners, operators, and occupants of properties shall maintain the structures and exterior property grounds in compliance with this ordinance and shall be jointly and severally liable for violations and for corrective actions required.

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health and safety and to avoid any adverse effect on the value of adjoining properties.

SECTION 8 ENFORCEMENT & PENALTIES

Method of Service

The Code Enforcement Officer shall notify the violator. Such written notice of violation shall be deemed to be properly served if a copy thereof is: 1. Delivered personally by hand delivery, 2. Sent by certified mail addressed to the last known address; or 3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure or property affected by such notice.

Said notice shall explain the nature of the violation and require corrective action within 30 calendar days from the date of the receipt of the notice to correct the violation; 7 days for a health and/or safety violation. The violator may appeal the Code Enforcement Officer's decision to the Town Council. A written application for appeal must be filed within 7 days of notification of violation or order served by the Code Enforcement Officer. Appeals of notices and orders (other than imminent danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Town Council. The number of days given for compliance shall start after the Council has heard the appeal.

If a violation is not corrected within the time allowed, the Town shall pursue all remedies and relief available by law and/or in equity for land use ordinances, including without limitation the remedies and relief provided in 30A MRSA Section 4452 currently including, without limitation, a penalty of \$100 to \$2,500 per day for a specific violation, injunctive relief and reasonable attorney fees, expert witness fees and costs. The Town shall retain all penalties set forth in this ordinance. The Code Enforcement Officer may represent the Town in District Court, pursuant to Rule 80-K. However, should the services of the Town Attorney be required, the Code Enforcement Officer shall first review the case with the Town Council.

It shall be unlawful for the owner of a structure or property who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

Extension Requests

Violators may submit a written request to the Code Enforcement Officer for a one time extension of time to correct the violation/s. The extension of time may be given for financial hardship and it shall be required to prove hardship through financial documentation such as tax returns and proof of expenses. If a violation is discovered during winter months (November 1 - April 1) and if winter weather prevents the correction of a violation/s a onetime extension of time for winter conditions may be given. These extensions for financial or seasonal hardships shall be at the discretion of the Code Enforcement Officer. The Code Enforcement Officer may offer one (1) special extension of up to 180 days to violators of this ordinance if a reasonable hardship can be shown.

SECTION 9 SEVERABILITY

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

SECTION 10 CONFLICT WITH OTHER LAWS

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the provision imposing the greater restriction shall control. The newest version of this Ordinance shall be the one that is enforced.

SECTION 11 EFFECTIVE DATE

This ordinance shall be effective upon adoption by the Fairfield Town Council and may be amended in accordance with Town requirements for amending ordinances. Adopted: October 9, 2002, Amended: June 12, 2013.

DEFINITIONS

Where terms are not defined in this ordinance and are defined in the building, fire prevention, land use, plumbing or mechanical codes, such terms shall have the meanings ascribed to them as in those codes.

Where terms are not defined, through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context applies.

Blighting Problem – A deteriorated condition.

Casualty- Any unforeseeable, unintended accident affecting a property.

Cause or Contract- For this ordinance, “cause or contract” as it appears in Section 5 includes the initiation of an insurance claim (as opposed to resolution), the contracting of a construction/repair business, or the substantial preparation for self-repair work.

Grounds- The part of a property not covered by permanent structures.

Imminent Hazard – A condition which could cause serious or life-threatening injury or death at any time.

Infestation – The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

Junk — For this ordinance the term “junk” refers to dilapidated, discarded or used material or objects.

Nuisance Condition-This term has been defined by MRSA Title 17 Section 2802. It reads as follows: “The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations, offensive smells, or other annoyances, become injurious and dangerous to the health, comfort or property of individuals, or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise, of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn out or junked motor vehicles as defined in Title 29A, Section 101, subsection 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation, either within or without the limits of any highway, as to be unsightly, detracting

from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances.”

Occupant- Any person living, sleeping, or having actual possession of a dwelling unit or rooming unit.

Operator- Any person who has charge, care or control of a dwelling or property, or a part thereof, whether with or without the knowledge and consent of the owner.

Owner- Any person who, alone or jointly or severally with each other, shall have legal or equitable title to any property, with or without accompanying actual possession thereof, or shall have charge or control of any dwelling unit as owner or agent of the owner or as fiduciary including but not limited to executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how such possession was obtained.

Premises –A lot, plot or parcel of land including any structures thereon.

Property- For this ordinance the term shall be defined as any lot, plot, or parcel of land.

Structure- Anything built or constructed and permanently affixed on a property that cannot be considered grounds or landscaping.

Unserviceable- For the purposes of this ordinance the Town will rely on a Maine Supreme Court decision (Town of Pownal v. Emerson, 639 A.2d 619 (Me. 1994); Town of Mt. Desert v. Smith, 2000ME 88, 751 A.2.d. 445) which includes the following: “unserviceable means not ready for use or presently useable” as opposed to “incapable of being serviced.”

Yard –An open space on the same lot with a structure.

APPENDIX A GENERAL

Screening may be accomplished by natural or man-made objects, plantings or properly constructed fences, any of which must completely screen the items from ordinary view from any portion of any public way or abutting property throughout the entire calendar year. All screening must be located outside of the public way right-of-way limits.

Natural or man-made objects may be interpreted to be:

1. Hills, gullies, or embankments. Such man-made objects must be constructed to blend with the landscape with loaming and seeding or other treatment as may be necessary to establish a natural appearance.
2. Buildings or other installations.
3. Combinations of above.

Plantings

Trees, shrubs, or other vegetation of sufficient height, density and depth of planting or growth to completely screen the junkyard from ordinary view from any highway within the prescribed distance throughout the entire calendar year may be used for screening.

Fences

Fences shall be so located and of sufficient height to completely screen the junkyard from ordinary view from any highway within the prescribed distances. It must be emphasized that height must be sufficient to accomplish the complete screening from ordinary view. All fences shall be well constructed and maintained. Only sound undamaged material, uniform in appearance, and erected in a workmanlike manner will be acceptable to be considered a fence.

Suggested Materials

Posts: Wood - Sound, round or square, preferably cedar, hackmatack, spruce, or fir. Preservative treatment is suggested. 4" x 4" (square) or 4" minimum diameter (round).

Metal - Steel pipe or structural section steel either galvanized or base coat painted with rust inhibitive paint.

All posts to extend a minimum of forty (40) inches below ground level and to be set plumb. Recommended post spacing eight feet (8') to twelve feet (12'). End and corner posts to be diagonal braced to nearest adjacent post.

Stringers: Minimum 2" x 4" - Spruce or Fir - Sound and free of excessive or weakening knots, and relatively free from lumber defects such as wane, twist, cup, or bow and preferably treated with wood preserver after cutting to length. Solidly spike to wood posts or bolted to metal posts. Three stringers for 6 to 8 foot height of fence.

Steel pipe or structural section stringers may be used. There should be either galvanized or base coat painted with rust inhibitive paint.

Facing Materials

Facing materials may be wood, composite, sheet metal or plastic. Although new material will not be a requirement, deteriorated, poor quality, bent, damaged, scrap, discarded, mixed or conglomerate materials will not be acceptable as facing material.

Suggested materials would be sound, new or used boards; exterior grade hardboard, steel, aluminum, or vinyl fence material.

It is suggested that all fastenings be galvanized nails, spikes, bolts, clamps, etc., and that all wood materials be treated with wood preservative (with color additive) to preserve and prolong the life of the fence and to present a uniformity of appearance.

Since wind damage is a problem with any fence, bracing may be required and certainly would be essential on any fence over 8 feet in height. In board fence construction, relief of wind pressure may be achieved by placing the boarding alternatively on outside and inside of stringers with the spacing to be such that the edges overlap enough to present a solid appearance and effectively screen the junkyard from ordinary view.

ORDINANCE # PD95-01 PROSECUTION OF TOWN ORDINANCES

The Council of the Town of Fairfield hereby gives the Chief of Police authorization to represent the Town of Fairfield in District Court in the prosecution of alleged violation of those ordinances which the police department is empowered to enforce, if duly certified in accordance with Title 25 M.R.S.A. Section 2803, or successor statute. The Chief of Police may designate any officer under his command, if so certified, to perform this prosecutorial function.

Dated: March 21, 1995
Town Council

Effective Date: This ordinance shall become effective upon adoption by the Council.

Adopted on the 21st day of March, 1995 by the Fairfield Town Council and attested by Cynthia P. Blair, Town Clerk.

AN ORDINANCE RELATIVE TO PUBLIC DUMPING GROUNDS

SECTION 1

The Council shall designate certain areas as Public Dumping Grounds where rubbish may lawfully be deposited and may establish hours for the use of same.

SECTION 2

The use of any Public Dumping Grounds located in the Town of Fairfield shall be restricted to the dumping of refuse originating within the said Town of Fairfield.

SECTION 3

The use of any Public Dumping Grounds shall be under the direction of the custodian, and the deposit thereon of junk automobiles, car bodies or other oversize objects is expressly forbidden.

SECTION 4

The removal of any material from a Public Dumping Ground, without the written consent of the Town Manager or Town Council is forbidden.

SECTION 5

Any person found guilty of violating any of the provisions of this Ordinance shall be subject to a fine of not more than \$25.00 for each offense.

Adopted: March 4, 1968

Town of Fairfield Public Safety Ordinance

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The effective date of this Ordinance is the 20th day of August, 1996.

Amended October 12, 2005.

Amended October 26, 2005.

Amended December 14, 2011.

Amended October 10, 2012.

Amended February 13, 2013.

Amended November 12, 2014

Amended August 9, 2017

FAIRFIELD PUBLIC SAFETY ORDINANCE

ARTICLE 1

Stopping, Standing and the Parking of Vehicles on Municipal Ways.

SECTION 1 PROHIBITIONS

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control device, in any of the following places:

1. On a sidewalk, bridge or culvert, bicycle lane, bicycle and pedestrian lane, or crosswalk;
2. In front of any public or private driveway; nor within ten feet of either side of any driveway;
3. Within an intersection;
4. Within fifteen (15) feet of a fire hydrant;
5. Within twenty (20) feet of the near corner of the curbs at the intersection, unless otherwise designated;
6. Within twenty feet of the driveway entrance of any fire station and on the side of the street opposite the entrance of any fire station within seventy-five (75) feet of that entrance.
7. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;
8. On the road way side of any vehicle stopped or parked at the edge or curb of the street or double parked, so-called;
9. At any place where official signs prohibit stopping;
10. Within ten (10) feet of a railroad track;
11. On any street or highway that is the traveled portion of said street or highway;
12. On any street or highway where parking is allowed, with the vehicle facing in the opposite direction.

SECTION 2 PASSENGER AND FREIGHT LOADING ZONES

The Municipal Officers may establish passenger zones and freight loading zones and place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this Ordinance are applicable.

SECTION 3 NO PARKING ZONES

The Municipal Officers may establish and then erect and maintain signs indicating that no parking is permitted on the side of said street.

SECTION 4 STANDING OR PARKING CLOSE TO THE CURB

Except when necessary in case of an accident to a vehicle or in obedience to traffic regulations or signs, the operator of a motor vehicle shall park such vehicle headed in the direction of traffic and with curb side wheels of the vehicle within one foot of the edge of the roadway, except as provided in the following paragraphs:

FAIRFIELD PUBLIC SAFETY ORDINANCE

1. Upon those streets which have been marked or signed for angular parking. Vehicles shall park at an angle to the curb as indicated by such marks and signs;
2. The Municipal Officers shall determine upon what streets angular parking shall be permitted and mark or sign such streets or parts of streets or cause the same to be marked or signed;
3. That portion of Main Street on the westerly side from Waterville-Fairfield town line to a point which is the southwesterly corner of the intersection of Cottage Street and Main Street shall be restricted to parallel parking only.

SECTION 5 VEHICLES NOT TO OBSTRUCT

- A. It shall be unlawful for the operator of any vehicle to place the same in any street so as to prevent or obstruct the passing of other vehicles or passenger bus, and it shall be unlawful for any operator to double park a vehicle or stop the same abreast of another vehicle lengthwise or otherwise in any street at any time.
- B. Large vehicles - No owner or operator, or person in charge of any vehicle which has a carrying capacity of more than three thousand pounds or which including load is more than eighteen feet in length or which including load is more than eight feet in width, or which including load is more than twelve feet six inches in height, shall permit the same to stand upon any public street in the town for longer period than two hours, except when loading and unloading.
- C. No vehicle specified in Section B as large vehicles shall park within the compact or built up area for a longer period than 20 minutes and then only when loading and unloading.

SECTION 6 SPECIFIC PARKING RESTRICTIONS

- A. The following street intersections are hereby declared to be hazardous areas and no vehicle shall be permitted to stop, stand, or park within twenty - five (25) feet of a point where the curb lines extended would intersect at the following street corners or intersections:
 1. Main Street and Summit Street
 2. Main Street and Military Avenue
 3. Main Street and Burrill Street
 4. Main Street and Western Avenue
 5. High Street and Robinson Street
 6. High Street and Burrill Street
 7. High Street and Elm Street (south-easterly side)
 8. High Street and Western Avenue
 9. High Street and Lawrence Avenue
 10. Western Avenue and Maple Street
 11. On the easterly side of High Street within seventy-five (75) feet of its intersection with Elm Street
- B. No vehicle shall be allowed to stop, stand or park:

FAIRFIELD PUBLIC SAFETY ORDINANCE

1. On the westerly side of Main Street from a point of Summit Street north-west intersection of Main and Summit Street, no parking or standing vehicles.
2. On the westerly side of Main Street from a point at the Northwesterly intersection of Main Street and Cottage Street to a point on Main Street just 397 feet northerly of the first mentioned point.
3. On the easterly side of Main Street from a point in the Waterville-Fairfield town line to a point 1,235.6 feet northerly from the Waterville-Fairfield town line.
4. Within twenty feet of any crosswalk at any point along the westerly side of Main Street beginning at a point in the Fairfield-Waterville town line to a point which is the south-westerly intersection of Cottage Street and Main Street.
5. Any portion of Main Street where the highway is divided into two roadways by an intervening island or physical barrier.
6. On the westerly side of Main Street from a point at the northwest corner of the intersection of the Huhtamaki, Inc. parking lot driveway and Main Street to a point where the Northerly boundary line to the Huhtamaki, Inc. property intersects the Westerly side of Main Street.
7. On the westerly side of Main Street from a point at the southwest intersection of Main Street and Western Avenue to a point on Main Street just four hundred (400) feet southerly from the first mentioned point.
8. On the easterly side of High Street from a point just opposite the Southwest intersection of High Street and Woodman Avenue to the Northeast corner of the intersection of High Street and Burrill Street.
9. On the southerly side of Water Street from the Southeast corner of the intersection of Water Street and Main Street to a point opposite the Northwest corner of the intersection of Mill Street and Water Street.
10. On the northerly side of Western Avenue from the northwest corner of the intersection of Western Avenue and Main Street to the northeast corner of the intersection of Western Avenue and Maple Street.
11. On the easterly side of Island Avenue from the intersection of Island Avenue and Bridge Street to the Main Central Railroad bridge of Island Avenue.
12. No person or persons shall park any motor vehicle beyond the area designated by the Municipal Officers so as to obstruct the view of any warning signals.
13. On the westerly side of Mill Street so called, beginning at a point where the Mill Street so called intersects with the southerly line of Bridge Street to a point on Mill Street so called just one hundred and seventy-six feet southerly from the first mentioned point.
14. It shall be unlawful for any person to park a motor vehicle in any loading zone established by the Municipal Officers except for the purpose of unloading merchandise at the place of business where such loading zone is established. Such loading zones shall be appropriately marked by signs or devices placed there at the direction of the Municipal Officers to indicate the nature of the loading zone.
15. On either side of Preble Street from the Kelley Street intersection to the Elm Street intersection while school is in session.
16. On the Westerly side of High Street from the Southwest corner of the intersection of Elm Street and High Street, South to the Northwest corner of the intersection of Kelley Street and High Street, no parking or standing vehicle.

FAIRFIELD PUBLIC SAFETY ORDINANCE

17. It shall be unlawful for any person to park a commercial vehicle or bus on the East side of Main Street from the Southeast corner of Water Street to the Northeast corner of the South entrance of the Big Apple Store.
18. On the Westerly side of U.S. Route 201, also known as the Skowhegan Road, from the Southwest corner of the Old County Road intersection to a point 1,000 feet South of the Boulet Trucking entrance.
19. On the Easterly side of U.S. Route 201, also known as the Skowhegan Road, from the Northeast corner of the entrance to Caswell's Warehouse, North to the Southeast corner of Brayley Avenue.

SECTION 7 PARKING NEAR THE FIRE STATION

- A. Authority of the Chief. The Chief of Police or the Fire Chief or both are hereby authorized to set out, make and maintain parking signs, lines and barriers near the fire stations in accordance with other provisions of the Section.
- B. Fire Personnel. Parking for fire personnel only shall be permitted in the stalls marked as "Fire Personnel".
- C. The Fire Chief is authorized to regulate parking by means of signs within 100 feet of any fire station.

SECTION 8 HANDICAPPED PARKING

No person shall park or cause to be parked any motor vehicle or motorcycle in a parking space clearly marked as a handicapped parking space, unless that vehicle or motorcycle displays a special registration license plate issued under Title 29-A M.R.S.A. Sections 521, 522 or 523, or a similar license plate or placard issued by this or any another state.

SECTION 9 DOUBLE PARKING

Double parking shall not be permitted on any street or way within the Town of Fairfield.

SECTION 10 PARKING TIME LIMITED

- A. Whenever any time limit parking is imposed, except when specifically exempted, the Municipal Officers shall erect appropriate signs giving notice thereof.
- B. Between the hours of nine o'clock in the forenoon and nine o'clock in the evening, Monday through Sunday in accordance with the time adopted and in effect in the town, it shall be unlawful for the operator of any vehicle to park the same for any one consecutive period of time longer than one hundred twenty minutes (2 hours) or upon the following streets or parts thereof:
 1. Both sides of Main Street from Summit to the intersection of Elm Street.

FAIRFIELD PUBLIC SAFETY ORDINANCE

2. Both sides of Lawrence Avenue from Main Street three hundred (300) feet westerly and from Main Street to the Fairfield-Benton Bridges.
 3. Both sides of Main Street southerly from the intersection of Main Street and Water Street to the intersection of Main Street and Gibson Street.
 4. The westerly side of Main Street from the entrance to the Huhtamaki parking lot, to the Waterville town line shall be limited to thirty (30) consecutive minutes of parking.
- C. No vehicle shall be left parked on the following streets from August 15 to June 30 of the following year.
1. On the Northerly side of Summit Street from the intersection of West Street to the intersection of High Street.
 2. On the Northerly side of Flood & Kelley Street from the intersection of West Street to the intersection of Preble Street.
 3. On the Easterly side of West Street from the intersection of Savage Street to the intersection of Elm Street.
 4. On the Northerly side of Elm Street from the intersection of Preble Street to the intersection of West Street.

SECTION 11 MUNICIPAL PARKING LOTS

- A. It shall be unlawful and a violation of this Ordinance for any person to permit any vehicle owned by or under the control of such person to remain or stand in any Municipal Parking Lot at any time unless such vehicle complies with the laws of the State of Maine made and established for the licensing of such vehicle.
- B. Any police officer of the Town of Fairfield may cause an unlicensed motor vehicles found in any Municipal Parking Lot of the Town of Fairfield to be towed away at the expense of the owner of said vehicle.
- C. No person shall park any vehicle in any Municipal Parking Lot in the Town of Fairfield for a period exceeding twenty-four (24) hours at any one time. For the purpose of this Ordinance, Municipal Parking Lots are hereby defined as lots of land owned and set aside by the Town of Fairfield as off- street parking areas for the parking of vehicles. Such areas are for public usage under the regulations of this Ordinance.

SECTION 12 SNOW REMOVAL

No vehicle shall park so as to interfere with or hinder the removal of snow from any street or way. The Chief of Police may cause a vehicle so parked on any street or way to be removed from the street and placed in a suitable parking space off the street, at the expense of the vehicle owner.

For the purpose of facilitating the removal of snow from the streets of the town, the Town Manager or Police Chief may cause to be placed properly marked signs along any street or

FAIRFIELD PUBLIC SAFETY ORDINANCE

streets as he or she shall from time to time deem necessary. It shall be unlawful for the operator of vehicles to enter upon, stop, or park within the space indicated by such signs.

SECTION 13 WINTER PARKING BAN

No vehicle shall be parked on any street or way of the Town from November 1 to March 31 of the following year, between the hours of 12:00 a.m. and 5:00 a.m. Any vehicle so parked may be removed or caused to be moved within the scope of the towing guidelines of the Town of Fairfield. Emergency vehicles of the Town, ambulances, doctors and police vehicles within the scope of their duty are exempted.

SECTION 14 EMERGENCY PARKING

When, in the best judgment of the Municipal Officers or the Chief of Police, an emergency exists or is about to exist because of snow, ice, hurricane, or other weather hazard, or because of a large gathering such as a fair or concert, the Municipal Officers or the Chief of Police may, notwithstanding any other provision of this Ordinance determine and designate, by proper emergency signs, streets or portions of streets, on which no stopping or parking of vehicles may be permitted and also to determine and designate, by proper emergency signs, streets, or portions of streets, on which vehicular traffic may move only in one direction.

SECTION 15 PENALTIES

- A. Any person who violates a provision of the parking ordinance shall be subject to the following penalties:
- | | |
|---|----------|
| 1. Overtime Parking | \$10.00 |
| 2. Vehicle in Crosswalk or in Sidewalk | \$10.00 |
| 3. Obstructing Traffic | \$10.00 |
| 4. Obstructing Driveway | \$10.00 |
| 5. Parking in Restricted Area | \$10.00 |
| 6. Double Parking | \$10.00 |
| 7. Parking Overnight/Winter Ban Parking | \$10.00 |
| 8. Other | \$10.00 |
| 9. Handicapped Parking Violation | \$200.00 |
- B. If the penalty is not paid within 30 days after notice of the violation, a civil summons may be issued charging that person with the specific violation under Article IV. Upon adjudication, that person shall be punished by a fine according to Section 15, Penalties. The District Court in addition to the penalty may assess a fee not to exceed \$100.00 to cover the cost to the Town for the District Court process.
- C. Penalties are to be collected by the Fairfield Police Department dispatch office and handled according to the Town cash control policy. A duplicate copy of the account will be forwarded to the Town Treasurer.

SECTION 16 SCOFFLAWS

FAIRFIELD PUBLIC SAFETY ORDINANCE

Offenders who have three or more unpaid parking tickets issued by the Fairfield Police Department under this Ordinance shall be considered scofflaws. Any vehicle of a scofflaw found to be in violation of this ordinance may be removed and stored at the owner's expense until all fines, penalties, storage, and towing charges are paid.

SECTION 17 EMERGENCY REMOVAL

The Chief of Police or his or her designee may cause the removal, at the owner's expense, of any motor vehicle in violation of this ordinance which is posing an immediate threat to public safety.

FAIRFIELD PUBLIC SAFETY ORDINANCE

ARTICLE 2 Impounding Vehicles

SECTION 1 AUTHORITY TO IMPOUND

- A. Members of the Police Department are authorized to cause to be removed any vehicle from a street or highway, or any public way, to the nearest garage or other place of safety, or to an area designated or maintained by the Town, in the following instances:
1. When any vehicle is left unattended upon any bridge or causeway where such vehicle constitutes an obstruction to traffic;
 2. When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic or the person or persons in charge of the vehicle are incapacitated to such an extent as to be unable to provide for its custody or removal;
 3. When any vehicle is left unattended upon any street or highway and is so parked illegally as to constitute a hazard to life or property or obstruction to the normal movement of traffic;
 4. When any vehicle is left unattended upon any street highway and is so parked as to interfere with or hinder snow removal operations by the Town;
 5. When any vehicle is parked in violation of the provisions of this Ordinance, including being parked in excess of the time specified herein;
 6. When a vehicle is found on a street, highway or public way within the jurisdiction of the Town, when such vehicle has three or more outstanding parking violations, and is at that place and time in violation of any provision of this Ordinance;
 7. When a vehicle is left unattended, upon or adjacent to a street or highway, the owner, or person in charge of said vehicle shall remove or cause to be removed the vehicle within 24 hours. If the vehicle is not removed as required, the Police Department may have the vehicle towed at the owner's expense.

SECTION 2 TOWING RECORDS

When a vehicle is caused to be removed by a police officer, the Police Department shall keep and maintain a record of the vehicle towed, listing its owner as reflected by the registration records, the owner's address, the make, year of manufacture, the color of the vehicle, the registration number, the state of registration, the date and hour of the tow, the location towed from, the location towed to, the reason for the towing, and the name of the officer authorizing the tow. A copy of this notice shall be given to the operator of the vehicle conducting the towing and impounding activities and to the operator of the facility where the vehicle is to be impounded.

SECTION 3 COST

The owner of any vehicle removed from the street or highway or public way pursuant to this Ordinance shall be responsible for all towing costs.

FAIRFIELD PUBLIC SAFETY ORDINANCE

SECTION 4 RECLAIMING VEHICLES

A. The owner of any vehicle removed from the street or highway under this Ordinance may reclaim the vehicle by:

1. Furnishing satisfactory evidence of his identity and of his or her ownership of the vehicle to the officer in charge at the Police Department;
2. Paying the costs for the towing and storage of the vehicle;
3. Paying all outstanding fines, fees and assessments for parking violations outstanding against the vehicle at that time; and,
4. Signing a receipt for the return of the vehicle.

FAIRFIELD PUBLIC SAFETY ORDINANCE

ARTICLE 3 **Taxicab Licenses and Stands**

SECTION 1 TAXICAB STANDS

The Municipal Officers are hereby authorized to establish Taxicab Stands on such streets and in such places and in such manner and numbers as shall be determined to be the greatest benefit and convenience to the public and appropriate signs shall designate every stand. Municipal Officers may also assign said stands to persons or corporations authorized to engage in the Taxicab Business in a manner for the benefit and convenience of the public. The Municipal Officers may revoke, alter, or amend any established stand or any assignment to any established stand.

SECTION 2 TAXICAB LICENSE

Taxicab means a sedan, station wagon or minivan used for hire, with a driver, which has a seating capacity of fewer than 5 persons behind the driver. This definition is found in Title 29-A M.R.S.A. Section 101 (79).

SECTION 3 LICENSE REQUIRED

No person shall own and use or operate any taxicab in the Town without a license for such purpose as provided for herein. Operate, for the purpose of this section only, shall mean: To pick up any paying fair. Nothing in this policy shall prevent Taxicabs licensed in another jurisdiction from dropping off a paying fair in the Town of Fairfield.

SECTION 4 ISSUANCE OF OWNER'S AND OPERATORS LICENSES

A. The Municipal officers shall have the authority to authorize the office of the Police Chief, or his/her designee to issue licenses to own or use a vehicle for hire within the Town and further to issue licenses to operate a taxicab within the Town. Applicants for either an owner or operator's license must file a written application with the Police Department and must pay the required fee. The Police Department, utilizing the following guidelines and standards, will issue a license, provided all of the following guidelines and standards are met:

1. Has a valid State of Maine driver's license;
2. Is at least eighteen (18) years of age;
3. For any owner, has the required vehicle registration.
4. Has a minimum of one (1) year's driving experience;
5. Has been photographed by the Town of Fairfield;

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6. Has obtained an identification tag as described in Section 6 of this chapter;
 7. For an owner, has current liability running for no less than one (1) year after May first of each year, and for a sum of not less than fifty thousand dollars (\$50,000.00) because of bodily injury or death to any one person; in the amount of one hundred thousand dollars (\$100,000.00) because of bodily injury or death of two (2) persons in any one accident; and in the amount of twenty-five thousand dollars (\$25,000.00) because of injury to and destruction of property in any one (1) accident; or a one hundred twenty-five thousand dollar (\$125,000) single-limit policy as provided through the assigned risk program. All liability insurance policies required under this subsection shall contain a clause requiring notification to the Town if the policy is canceled or not renewed;
 8. Has not been convicted of any of the following:
 - i. Operating under the influence of either drugs or alcohol within the previous one-year period; two (2) or more convictions for operating under the influence of either drugs or alcohol within the previous (6) six-year period;
 - ii. A class A, B, or C crime and any sexual offense of any class as set forth in Chapter 11 of Title 17-A of M.R.S.A., within the previous (10) ten-year period; conviction of any crime of any class that involves threatening or violent behavior within a (5) five-year period;
 - iii. More than two (2) motor vehicle violations within the past eighteen (18) months; more than four (4) motor vehicle violations within the past thirty-six (36) months;
 - iv. Is not required to register as a sex offender.
 9. Has submitted the appropriate fees at the time of application; the sum of fifty dollars (\$50.00) for each taxicab and the sum of fifteen dollars (\$15.00) for each operator plus the cost of background checks for an initial license, and the sum of five dollars (\$5.00) for each operator plus the cost of background checks for renewals. Operators licensed in reciprocating communities will not be charged the background check charge for initial licenses only. Fees are non-refundable.
- B. If the Police Chief makes the factual determination that one (1) or more of the above guidelines and standards has or have not been met, is to issue in writing a denial of a request for a license to either own or use or to operate and will set forth the reason for refusal to issue such license. An applicant who has been denied a license shall have the right to appeal the denial of this license to a select committee designated by the chairman of the Town Council, which committee may consist of no more than three (3) members. The select committee shall act in an appellate manner and shall ascertain from the facts presented in the record compiled by the Fairfield Police Department as to whether the facts are accurate, and if accurate constitute a failure to meet one (1) or more of the guidelines or standards set forth in this section as a basis for denial of a license. An appeal from the decision of the select committee of the Town Council will then be in accordance with Rule 80B of the Maine Rules of Court.

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SECTION 5 RENEWAL AND REVOCATION OF OWNER'S OR OPERATOR'S LICENSES

- A. The Chief of Police shall renew a license-issued under Section 4 to either own or use a taxicab or to operate a taxicab on or before May 1st of each year, provided however, that the applicant must still meet all of the licensing guidelines and standards set forth in Section 3. Upon proof of meeting the guidelines and standards and payment of the license fee, the Police Chief is authorized to issue a renewal of licenses under this section.
- B. If information is provided to the Police Chief that a current licensee has violated one (1) or more of the guidelines or standards set forth in Section 4 and this fact is verified by the Fairfield Police Department, then in that instance, the Police Chief shall issue a notice of revocation of an existing license. A licensee who has been notified of revocation of this license is entitled to an appeal from this decision in the manner set forth in Section 4 provided however, the licensee shall be banned from owning and using or operating pending a decision on appeal. Failure to surrender a revoked license upon written request by the Police Chief shall be subject to a fine under Section 12.

SECTION 6 IDENTIFICATION TAG GUIDELINES

- A. Each taxicab operator is required to display an identification tag in a conspicuous manner in any taxicab the licensee operates. The identification tag must contain the licensee's name, photograph, and license number.
- B. Every taxicab owner licensed to operate within the Town shall keep a copy of the guidelines set forth in Section 3 posted at his place of business.

SECTION 7 REQUIRED INSPECTIONS; CERTIFICATE

Each taxicab used in this Town shall be inspected by May 1 each year; and at the request of the owner or operator thereof, may also be inspected at any other time. No certificate of inspection shall be in force longer than a one (1) year period. Such inspection shall be made by the Chief of Police or designee who shall issue his certificate of inspection if he finds the taxicab to be safe, clean and otherwise suitable. Such certificate shall be carried in the taxicab and readily available for inspection. No taxicab shall be operated without such certificate.

SECTION 8 REVOCATION

The municipal officers may revoke or suspend the license of any owner or operator who violates the conditions of the license, makes a material misstatement on the application for the license, uses abusive or profane language in the presence of a passenger, keeps his taxicab in an unsafe, unclean or unsatisfactory condition, or operates his taxicab in an unsafe manner. The municipal officers may revoke or suspend the certificate of inspection of any taxicab, if any part of it is found by the chief of police to be in an unsafe, unclean or unsanitary condition.

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SECTION 9 RATES TO BE CHARGED, VIOLATIONS, PENALTY

- A. The rates to be charged by taxicabs shall not be lower than the minimum rates nor exceed the maximum rates that may be fixed by the municipal officers. A schedule of rates so fixed, together with a representative mileage chart provided by the municipal officers, shall be posted in every taxicab when in operation, and the schedule shall be illuminated at night so as to be easily read by passengers.
- B. In case of violation of the rates so fixed, owners or operators of taxicabs shall be liable to the penalty provided in Section 12 of this Code for each violation, and in addition the municipal officers may revoke or suspend the license of any taxicab owner or operator who is convicted of such violation.

SECTION 10 PAID RATES

- A. No taxicab operator or taxicab owner shall charge a sum for the use of a taxicab other than in accordance with the following rates:
 - 1. The charge for taxicab service for a passenger shall not be less than one dollar and seventy-five cents (\$1.75) and not more than two dollars and fifty cents (\$2.50) for the first mile or part thereof from the point of origin (pickup) and then twenty-five cents (\$0.25) for each one-fifth ($\frac{1}{5}$) mile or portion thereof after the first mile of travel.
- B. Charges for handling and delivery of packages shall be as follows:
 - 1. No charge shall be made for baggage or parcels, the size of which permits them to be carried in the cab and which may safely be handled by the passenger.
 - 2. An additional charge of no more than one dollar (\$1.00) for aiding with groceries, parcels and baggage placed in the trunk over the rate of fare for a passenger as calculated above may be charged.
 - 3. The rate for pickup, handling and delivery of packages and errands without a passenger will be the same as that for a passenger as calculated above.
- C. The rate for additional passengers will be a maximum of one dollar (\$1.00) each. No driver shall permit any other person to occupy or ride in his taxicab unless the person first employing the taxicab shall consent to the acceptance of additional passengers. It shall be unlawful for a passenger to fail or refuse to pay the lawful fare at the termination of the trip.

SECTION 11 NUMBER OF PASSENGERS PERMITTED

The number of passengers carried by a taxicab at any time shall not exceed the seating capacity of the vehicle.

SECTION 12 FINES AND PENALTIES

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Any person, firm, partnership, or corporation violating any provision of this taxicab ordinance shall be punished upon adjudication by a fine of not less than one hundred dollars (\$100.00) nor more than four hundred dollars (\$400.00) for each offense. Each day on which any continuing offense occurs shall constitute a separate offense.

SECTION 13 RECIPROCITY

Any other town or city that allows taxicabs and drivers licensed by the Town of Fairfield the right to operate in said town or city, without obtaining a license from said town or city, shall be awarded that same right of operation in the Town of Fairfield provided that said town or city has a written ordinance that is at least as stringent as the Fairfield Public Safety Ordinance Article V dealing with taxis.

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ARTICLE 4

No Through Trucks, Seasonal Weight Restrictions

SECTION 1 NO THRU TRUCKS

There will be no through truck traffic at the following locations:

1. Covell Road, from the Norridgewock Road (Route 139) to the Middle Road (Route 104).
2. Davis Road, from the Norridgewock Road (Route 139) to the intersection of Toulouse Corner (Six Rod Road, Ten Lots Road, and Martin Stream Road intersection).
3. Wood Street, from the Middle Road (Route 104) to the Davis Road.
4. Eskelund Drive, from Route 201 to Western Avenue.
5. High Street, from Western Avenue to Main Street.
6. Lawrence Avenue, from Main Street to High Street.
7. Newhall Street, from Western Avenue to Lawrence Avenue.

EXCEPTIONS: This Article will not pertain to pick-up trucks or four wheel vans. All State of Maine and Fairfield Municipal vehicles, Local deliveries and pickups may be made on the Covell Road, Davis Road and Wood Street.

SECTION 2 SEASONAL WEIGHT RESTRICTIONS ON TOWN WAYS

- A. Purpose. The purpose of this Article is to protect the public health, safety and general welfare of the citizens of the Town of Fairfield and the general public by regulating the seasonal weight restrictions on town ways in order to insure the proper use of and to prevent the abuse of all town ways and town highways within the Town of Fairfield.
- B. Seasonal Weight Maximum.
 1. It shall be unlawful for any motor truck, motor vehicle, animal drawn vehicle, or team exceeding the registered gross weight of 23,000 pounds to pass over any and all town ways, town highways, improved 3rd class highways, and bridges, or sections thereof, at anytime during the weight restriction season except when the way is solidly frozen meaning that the air temperature is below 32 degrees and there is no liquid water showing in cracks or potholes. Both conditions are required for road to be considered solidly frozen.

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2. It shall be unlawful for any vehicle or combination of vehicle exceeding the registered gross vehicle weight to pass over any and all town ways, town highways, improved 3rd class highways, and bridges or sections thereof at any time.
- C. Special Exceptions. This Ordinance shall apply to all motor trucks, motor vehicles, animal drawn vehicles, and teams, except the following:
1. Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less, other than those referred to in Section B (2) above.
 2. Any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicles.
 3. Any vehicle engaged in highway operation, repair, or maintenance under the direction of the Fairfield Public Works Director or the Maine Department of Transportation.
 4. Any two-axle home heating fuel truck registered in excess of 23,000 pounds which has an exemption certificate issued by the Maine Department of Transportation.
 5. Any vehicle engaged in the transportation of bulk milk or bulk feed which is registered in excess of 23,000 pounds with an exemption certification issued by the Maine Department of Transportation carrying a partial load with a weight equal to or less than indicated on the exemption certification as documented by delivery slips or bills of lading accompanying the vehicle.
 6. Any vehicle engaged in the transportation of household refuse registered in excess of 23,000 pounds that has obtained a written permit from the Public Works Director or designee.
- D. Penalty for Violation. Any person, operator, or owner of any such motor truck, motor vehicle, animal drawn vehicle, or team who violates this Ordinance shall be guilty of a civil violation and each violation, upon conviction, shall be punished by a fine not to exceed \$500.00.

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ARTICLE 5

Pawn brokers, Second-Hand Junk dealers, Garage Sales, and Venders and Sellers

SECTION 1 LICENSE REQUIRED

No person shall engage in the business of pawnbroker, junk dealer, or second—hand dealer or conduct any garage sale without having a license or permit issued by the Town of Fairfield for such activity.

SECTION 2 DEFINITIONS

- A. Garage Sale shall mean and include all sales entitled “garage sale”, “lawn sale”, “attic sale”, “rummage sale”, and any similar casual sale of tangible personal property which is advertised by any means whatsoever whereby the public at large is or can be made aware of said sale.
- B. Junk Dealer shall mean any person engaged in the purchase, sale or barter of old iron, steel, chain, aluminum, brass, copper, tin, lead, or other base metals, belting, waste paper, old rope, old bags, bagging, barrels, piping, rubber, glass, empty bottles, and jugs of all kinds and quantities of less than one gross, and all other articles discarded or no longer used as manufactured articles composed of any one or more of the materials herein before mentioned.
- C. Pawnbroker shall mean any person engaged in the business of lending money on deposit or pledges of personal property or other valuable thing other than securities or printed evidence of indebtedness, or in the business of purchasing personal property, or chooses in action, or other valuable thing, and selling or agreeing to sell the same back to the seller at a price other than the original price of purchase, or in the business of purchasing personal property such as articles containing gold, silver, platinum or other precious metals or jewels for the purpose of reducing or smelting them into a different form and reselling the product.
- D. Second-hand Dealer shall mean any person who engages in the purchase, collection, transfer or storage for later resale, or who engages in the trading or selling, unless such sale is by auction of less than four days duration, of any article, vehicle or material, or portion thereof, of which prior use has been made in any manner whatsoever. The term, “secondhand dealer” shall not be construed to includes pawn broker, junk collectors, used car dealer, antique dealer who handle and sell bona fide antiques exclusively; nor shall it include any person primarily engaged in the retail sale of new and unused goods, who deals with used goods only incidentally, such as accepting such goods in trade as part of a transaction involving the sale of new goods, but only to the extent that such used goods are of the same type as the new goods sold by such person.

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- E. Vendor/Seller shall mean any person traveling by foot, wagon, automotive vehicle or any other of conveyance from place to place, from house to house, or from street to street carrying, conveying or transporting goods, wares and merchandise and offering or exposing the same or any service for sale; or who without traveling from place to place shall sell, expose or offer any goods, wares, merchandise or service for sale from any portable, mobile or temporary structure, or from a wagon, automotive vehicle or other vehicle or conveyance; or who without traveling from place to place shall sell, expose or offer for sale the same in the entrances to buildings or other premises or upon vacant lots or other tracts of land within the corporate limits of the town. The term “vendor/seller” shall not be construed to include the following: vendors of food sold by wagon, automotive vehicle or any other type of conveyance, vendors of merchandise by sample list or catalog for future delivery, vendors of farm, dairy, orchard, fish or forest products of their own production, vendors of newspapers and religious literature, route salesmen while engaged in making deliveries to their regular customers, commercial travelers or selling agents who, in the usual and customary course of business, make sales to dealers, or persons duly authorized to conduct tag days, sell poppies or otherwise solicit.

SECTION 3 LICENSE

- A. The municipal officers shall grant a license if the applicant has chosen a location which complies with all municipal zoning ordinances, has not been convicted of a crime arising out of sales of items covered in Section 2, has not violated state law governing pawnbrokers or junk dealers and second—hand dealers, and has filed an application with the town clerk with the following information:
1. Name of licensee;
 2. Proposed place of business;
 3. Hours of operation;
 4. Manner of operation;
- B. Any person who conducts a sale of used items from a residence more frequently than the single garage sale excluded from the regulation under Section 11 shall be deemed to be a secondhand junk dealer and must comply with all the requirements of this section. Renewals shall be issued by the Clerk upon submission of a renewal application substantially identical to the original application.

SECTION 4 INVESTIGATION OF APPLICANT AND PREMISES

Upon receipt of an application for any license or renewal, the clerk shall inquire of other town departments as appropriate for comments as to whether a license may be granted consistently with the provisions of the laws and ordinances enforce by such department. The fire chief shall cause inspection to be made for the purpose of determining if town ordinances, a state law, or state regulations concerning fire and safety have been complied with. The police chief shall cause an investigation to be made of the principal officers or persons to be licensed as a pawnbroker, junk dealer or second—hand dealer. All such persons shall report to the clerk in writing, and copies of any such report shall be deemed a public record.

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SECTION 5 REVOCATION/SUSPENSION

Duly authorized town officials shall have the power to temporarily suspend a license under this article if the license violates any conditions of the permit, violates any ordinance or statute governing the operation of any pawnshops, junk dealerships or second—hand dealerships or makes a material misstatement in the application, or the activity presents a danger to the health, safety or general welfare of the public. Following a Public hearing, any license issued by the town council and license fees retained by the town, upon a finding by the council that the licensee has violated the ordinances of the town or the laws of the state, or has willfully or persistently failed to comply with any applicable rules and regulations. Licensee must be notified a minimum of three (3) days prior to such hearing in writing stating the reasons for the revocation. In emergency situations where a license is suspended prior to a hearing, licensee must be given an opportunity to be heard as soon as is practicable.

SECTION 6 ISSUANCE OF LICENSE; FEE; DURATION; RECORDS

All licenses under this division shall be over the signature of the town clerk, and the fee for making and issuing the same shall be one hundred dollars (\$100), to be paid by the licensee. Such license shall continue in force for one year from its date, unless sooner revoked by the municipal officers.

SECTION 7 REGULATIONS

Every person licensed under this ordinance shall put and keep in some conspicuous place on and outside of his place of business a sign designating that he is licensed to deal in such articles; and he shall keep a book in which shall be written, at the time of every purchase of every such article, a description of the article and the day and hour when such purchase was made; and he shall at all times keep the articles thus purchased, while the same remain in his possession, in such convenient place that they may be readily seen and examined. Now pawnbroker shall sell any property until it has remained in his/her possession for three (3) months after the expiration of the time for which it was pawned. No other dealer or shopkeeper regulated by the provisions of this article shall permit to be sold any such article purchased or received by him/her until, at least, a period of one (1) week from the date of its purchase or receipt has elapsed, unless authorized to sell the same in less than one (1) week by the Chief of Police.

SECTION 8 RECORDS, ARTICLES PURCHASED SUBJECT TO INSPECTION

The book required to be kept by this ordinance and the articles thus purchased shall at all times be subject to the inspection and examination of the municipal officers, the chief of police and any police officer or constable or any other officer seeking information in the line of duty.

SECTION 9 DAILY REPORT REQUIRED

Every licensed pawnbroker, secondhand dealer and junk dealer shall make out and deliver to the chief of police or his designee on duty at the police department every day before the hour of

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10:00 a.m., a legible and correct list containing an accurate description of all articles taken in pawn, taken in exchange, bought or sold during the preceding twenty-four (24) hours, together with the time when such articles were pawned, exchanged, bought or sold. Whoever fails to comply with the provisions of this section shall be subject to a penalty not exceeding fifty dollars (\$50.00) to be recovered by complaint.

SECTION 10 PURCHASES FROM MINORS PROHIBITED

No person licensed as aforesaid shall purchase any of the articles named in Section 2 of this ordinance from any minor, without written authorization of a parent or legal guardian.

SECTION 11 GARAGE SALE PERMIT REQUIRED

A permit for a garage sale as defined in Section 2 shall be required and the following conditions shall be met:

- (a) a permit shall be issued by the Town Clerk or Police Chief for the garage sale at no cost to the resident.
- (b) the clerk shall register the sale with the police department of the Town of Fairfield.

SECTION 12 REQUIREMENTS AND RESTRICTIONS

The garage sale permit shall be posted in a conspicuous place. There shall be no more than three (3) sales a year permitted to any one person or for the same location during any calendar year. Each sale shall be no more than three (3) consecutive days. This permit may be canceled if in the opinion of the police chief or his/her designee there is a vehicular or pedestrian problem because of inadequate off—street parking arrangements. No fee shall be charged for garage sales as defined in Section 2. Failure to comply with this ordinance shall be punishable by a fine of not less than fifty dollars (\$50.00) for each violation.

SECTION 13 VENDORS AND SELLERS LICENSE REQUIRED

No person or persons shall engage in the business of vending or peddling of goods, ware, and merchandise at retail in the Town of Fairfield without first obtaining a license.

SECTION 14 REQUIREMENTS AND RESTRICTIONS

Such vendors and sellers license shall be granted by the Town Clerk for a specified period of time and only upon certification by the Chief of Police. This section does not apply to commercial agents or other persons selling by list, catalogs, or otherwise, goods, wares, or merchandise sold for future delivery. This section also does not apply to residents of Fairfield selling agricultural products produced on their property, or to persons selling newspapers, magazines, or religious literature, or to persons selling Christmas trees, wreaths, greens, cards, or seals.

SECTION 15 VENDORS AND SELLERS LICENSE FEES

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Vendors and Sellers License Fees are as follows:

- A. \$50.00 (fifty dollars) for an annual license.
- B. \$25.00 (twenty-five dollars) for a 30 day license.
- C. \$10.00 (ten dollars) for a one (1) day license.

Any person, firm, partnership, or corporation violating any provision of this section shall be punished by a fine of not less than \$50.00, nor more than \$250.00 for each offense. Each day on which any continuing offense occurs shall constitute a separate offense.

SECTION 16 SUSPENSION AND REVOCATION

Upon complaint being filed with the police department that any person to whom a local vendor/seller license has been issued has violated any law or ordinance which has a reasonable relationship to the conduct of the licensed business, and, if upon investigation, it is found that such complaint is valid, the police official charged with the duty of investigating such complaint may suspend such license for no more than three days. It shall be the duty of the police official who affects such a suspension to notify the Town Clerk and the Town Council on the next regular working day following such suspension. The grounds of such suspension shall also be sufficient basis for revocation of that same license.

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ARTICLE 6 **Noise Control**

SECTION 1 PURPOSE

This Ordinance is enacted to protect, preserve and promote the health, safety, welfare and quality of life of the citizens of Fairfield through the reduction, control and prevention of excessive noise.

SECTION 2 DEFINITIONS

- A. Day-Time Hours: Shall mean the hours between 7:00 a.m. and 9:30 p.m., Monday through Saturday and the hours 9:00 a.m. through 9:30 p.m. on Sundays. For the purposes of this Ordinance time shall be measured by the prevailing local time at the pertinent point in time, whether United States Eastern Standard Time or Eastern Daylight Time.
- B. Multi-Unit Structures: Shall mean any attached living units, including, but not limited to, apartments, condominiums, duplexes and multiplexes.
- C. Night-Time Hours: Shall mean the hours between 9:30 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and the hours between 9:30 p.m. Saturday evening and 9:00 a.m. Sunday morning. For the purposes of this Ordinance time shall be measured by the prevailing local time at the pertinent point in time, whether United States Eastern Standard Time or Eastern Daylight Time.
- D. Noise: Shall mean any sound, produced by any means. The term shall not be construed as having any connotations of pleasantness or unpleasantness.
- E. Noise Source: Shall mean anything capable of producing noise; the thing from which noise emanates.
- F. Persons: Shall mean any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political, administrative or legal entity of any kind.
- G. Premises: Shall mean any building, structure, land or portion thereof, including all appurtenances, and shall include yards, lots, courts, inner yards and real properties without buildings or improvements, owned or controlled by a person.
- H. Engine Brake: Shall mean a compression release engine brake, frequently called a Jake brake or Jacobs brake, an engine braking mechanism installed on some diesel engines. When activated, it opens exhaust valves in the cylinders after the compression cycle, releasing the

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compressed air trapped in the cylinders, and slowing the vehicle

SECTION 3 NOISE PROHIBITED

It shall be unlawful for a person to produce or initiate, or to be the efficient cause of production of, a noise that is audible above background sounds at a distance of 75 feet or more from the noise source. This Ordinance should be read in its entirety, as other prohibitions also apply. For example Section 5 prohibits the production of noise during night-time hours in a unit of a multi-unit structure that is audible in another unit in that structure.

SECTION 4 EXCLUSIONS

This prohibition shall not apply to noise produced by or related to the following activities, so long as the noise, if only related to an activity, is a reasonably necessary adjunct to the activity.

- A. Natural phenomena
- B. Church bells ringing as part of any official church ceremony or service, tower clock bells ringing the hour during the day-time hours, or electronic carillons.
- C. Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in any emergency situation, except burglar or other tampering or intrusion alarms, including but not limited to vault alarms and motor vehicle alarms, that produce a sound that is not terminated within twenty (20) minutes after activation.
- D. Warning devices required by the Occupational Safety and Health Administration or other state or federal safety regulations.
- E. Tools and equipment and processes used for or in domestic construction, repair, maintenance, improvement, and demolition, including but not limited to the power and hand tools and garden tractors, landowners and roto—tillers, when used or operated or performed during day-time hours.
- F. Timber harvesting, including, but not limited to, the felling and removing of logs from the woods.
- G. Commercial activities of construction, maintenance, repair, improvement, or demolition during day-time hours, provided the noise generated does not exceed limits that may be set from time to time by the U.S. Environmental Protection Agency or the Maine Department of Environmental Protection.
- H. Agricultural animals, livestock, or fowl.
- I. Refuse and solid waste collection, and collection of recyclable materials provided that the activity is conducted during day-time hours.

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- J. Any activity not prohibited by this Ordinance or by any other law, where the noise is not audible above background sounds beyond any lot boundary line of the premises upon which the noise source is located.
- K. Any activity for which a permit is required by and under the Ordinance or other law, including but not limited to parades, sporting events, concerts, and fireworks displays, provided that all licenses or permits required by this Ordinance and/or any other law shall have been obtained in accordance with applicable law.
- L. Noise associated with manufacturing activity permitted in an Industrial Zone.
- M. The use of Engine brakes, if they are being used in accordance with the Environmental Protection Agency's Codes as defined in 40 C.F.R. § 202.20. The Town recognizes that engine brakes are a critical component to the safe stopping ability of heavy equipment operated on town roads. Nothing in this article shall restrict the Town of Fairfield from posting signage that states "Please restrict use of engine brake" or other words to that effect.

SECTION 5 NOISE IN MULTI-UNIT STRUCTURES

It shall be unlawful for a person to produce or initiate, or to be the efficient cause of production of noise in one unit of a multi-unit structure which is audible in another unit of that same multi-unit structure during night-time hours, exceptions being bone fide cries for help, infants crying, and other unintentional noises that can not be reasonably controlled.

SECTION 6 SPECIFIC PROHIBITIONS

Anything in Sections 3 and 4 of this Ordinance to the contrary notwithstanding, the following activities are prohibited:

- A. ANIMALS: Keeping, owning, possessing or harboring any animal or bird which for a period of ten minutes or intermittently for one-half hour or more, makes sounds at any time of day or night which is audible beyond the lot line of the premises upon which the animal or bird is situated: provided, however, that it shall not constitute a violation of this Ordinance if at the time a dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property or upon which the dog is situated.
- B. RADIO: Using operating or playing, or permitted the use, operation or playing of any radio receiving set, musical instrument, phonograph, loud-speaker, sound amplifier, or other machine or device for the production, amplification, or reproduction of sound that is audible above background sounds at a distance of 75 feet or more from the noise source, and which is loud and unnecessary, and which disturbs the peace and quiet of others between the hours 9:30 p.m. and 7:00 a.m. Sunday morning. For the purposes of this Ordinance time shall be measured by the prevailing local time at the pertinent point in time, whether United States Eastern Standard Time or Eastern Daylight Time.

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- C. **VEHICLES:** Using, operating, or revving up, any automobile, motorcycle or vehicle in such a manner as to create loud and unnecessary gating, grinding, rattling or any other noise that is audible above background sounds at a distance of 75 feet or more from the noise source, and which is loud and unnecessary, and which disturbs the peace and quiet of others between the hours 9:30 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and the hours between 9:30 p.m. Saturday evening and 9:00 a.m. Sunday morning. For the purposes of this Ordinance time shall be measured by the prevailing local time at the pertinent point in time, whether United States Eastern Standard Time or Eastern Daylight Time.
- D. **VOICES:** Shouting or crying of peddlers, hawkers and vendors which unreasonably disturbs the peace and quiet of the neighborhood between the hours 9:30 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and the hours between 9:30 the hours between 9:30 p.m. Saturday evening and 9:00 a.m. Sunday morning. For the purposes of this Ordinance time shall be measured by the prevailing local time at the pertinent point in time, whether United States Eastern Standard Time or Eastern Daylight Time.
- E. **IDLING VEHICLES:** Idling of any engine or any standing motor vehicle with a weight in excess of 10,000 pounds Manufacturers Gross Vehicle Weight (GVW) for a period in excess of ten consecutive (10) minutes between the hours 9:30 p.m. and 7:00 a.m. Sunday evening through Saturday morning, and the hours between 9:30 p.m. Saturday evening and 9:00 a.m. Sunday morning. For the purposes of this Ordinance time shall be measured by the prevailing local time at the pertinent point in time, whether United States Eastern Standard Time or Eastern Daylight Time, when such vehicle is within a public way adjacent to a residential premises.

SECTION 7 PERMITS

This ordinance authorizes two kinds of noise permits, a Special Sound Permit and a Commercial Sound Permit, described below. Applications for these permits must be submitted to the Chief of Police of the Fairfield Police Department on a form furnished by the Town of Fairfield.

- A. **Special Sound Permits.** A Special Sound Permit is available to authorize the production or generation of sound that would otherwise be in violation of this Ordinance on an occasion that is not part of a regular business activity of the premises on which the sound will be produced or generated. The owner or operator or the manager of the premises shall apply for this permit at least forty-eight (48) hours before the hour the intended noise-producing activity will commence except for emergency repairs to public infrastructure in which case permission shall be sought as soon as possible. The Chief of Police or his or her designee will have sole authority to grant or deny a Special Sound Permit, but the decision must be made within the following guidelines.
- B. **Guidelines.**
 - 1. No permits shall be issued for any of the specific prohibitions listed in Sec. 6 above except for Sec. 6. An exception to this is for any public infrastructure construction or repairs that in the opinion of the Town Council, after a public hearing on the request,

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- would be in the best interest of the general public to have the work performed between the hours of 9:30 P.M. Sunday evening through 7:00 A.M. Saturday morning. Emergency repairs to public infrastructure are permitted to be done with permission from the Police Chief or his/her designee without a public hearing.
2. The activity producing noise must be an event which occurs infrequently on the premises listed on the Permit. If the noise production is a routine occurrence, the producer of such noise or the person responsible for the production of such noise, must obtain a Commercial Sound Permit.
 3. The applicant may not receive more than two Special Sound Permits for any particular premises in any twenty-eight (28) day period.
 4. The Chief of Police or his/her designee must consider the character of the neighborhood in which the applicant's premises is located in deciding whether to grant or deny a permit.
- C. If a permit is granted, the permittee must comply with the following terms. Failure to comply with the following terms shall be a violation of this Ordinance. After notice and a hearing a Special Sound Permit can be revoked by the Chief of Police for failure to comply with any of the terms or conditions of the Permit. This section shall not apply to public infrastructure work that the Town Council or Police Chief or his/her designee may permit.
1. The only noises permitted are music or the human voice.
 2. The permit shall be in effect for one day only, from 10:00 a.m. to 10:30 p.m. local time.
 3. The noise generated shall not be audible above background sounds at a distance of 100 yards or more from the noise source, nor shall the noise be unreasonably loud within the sound area.
 4. Noise shall not be produced within 100 yards of hospitals, schools, churches, nursing homes or business premises open to the public unless the permittee secures a consent in writing, and in advance, from the owner, lessee, operator or manager at the affected hospital, school, church, nursing home or business premises open to the public. Copies of the consents must be filed together with the application for the Special Sound Permit. The Chief of Police or his/her designee may determine whether all required consents have in fact been obtained.
- D. Appeal. Applicants may appeal any denial of a Special Sound Permit to the Fairfield Town Council, and if the denial is not reversed, to the Superior Court in accordance with law and court rules.
- E. Commercial Sound Permits. Any person who in the course of business intends to produce or be responsible for the production of noise in violation of this Ordinance more than twice in

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any twenty-eight (28) day period must apply to the Chief of Police or his/her designee for a Commercial Sound Permit. There shall be a \$50.00 application fee for this permit. After notice and a hearing the Chief of Police or his/her designee can revoke a Commercial Sound Permit for violating a term or condition of the Permit and no refund of the Permit application fee shall be due from the Town of Fairfield in the event of such revocation. Failure to comply with the following terms shall be a violation of this Ordinance.

1. Procedure. The Chief of Police or his/her designee shall conduct a public hearing on the application before issuance. The date, time and location of hearing shall be advertised once in a newspaper of general circulation in the Town of Fairfield at least one week, but not more than four weeks, before the hearing is held. The cost of this advertisement shall be prepaid by the applicant. The applicant will be responsible for placement of the notice upon approval of the Chief of Police or his/her designee. At the hearing all those in favor and all those opposed to the granting of the permit shall have an opportunity to voice their opinions. The hearing shall be an informal process. After the hearing, the Chief of Police or his/her designee shall grant or deny the permit, after applying the following guidelines.
 2. No permits shall be issued for any of the specific prohibitions listed in Section 6.
 3. The Chief of police shall address, in writing, the comments made at the hearing.
 4. The applicant must operate a business at an established premises.
 5. The Chief of Police or his/her designee must consider the character of the neighborhood in which the applicant's premises is located in deciding whether to grant or deny a permit.
- F. If a permit is granted, the permittee must comply with the terms listed in Section 7 above, except Section 7, and must also comply with the following:
1. The permit shall be in effect for one year from the date of issue, and shall permit noise production between the hours of 10:00 a.m. and 11:00 p.m., local time, Sunday through Thursday, and 10:00 a.m. to 1:00 a.m. Friday and Saturday. In addition, the following terms must be met:
 2. The permittee must pay the Town a reasonable sum, to be agreed upon by the Town Manager, for additional police protection on occasions negotiated and agreed upon by the applicant and the Chief of Police and his/her designee at the time of application.
 3. The permit is non-transferable. Furthermore, it cannot be transferred from one set of premises to another, even if both premises are owned by the same person.
- G. Appeal. Applicants may appeal a denial of a Commercial Sound Permit to the Fairfield Town Council, and if the denial is not reversed, to the Superior Court in accordance with law and court rules.

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- H. Expiration. A Commercial Sound Permit expires at 12:00 midnight on the last day of its one-year term. A permittee may file a new application for a permit not earlier than thirty (30) days before such expiration or at any time after such expiration.

SECTION 8 ENFORCEMENT

This Ordinance shall be enforced by the Fairfield Police Department. In the event the offense under this ordinance shall not have been witnessed by a law enforcement officer, the complaint may be substantiated by the use of a video camera and/or tape recorder or at least two sworn affidavits.

SECTION 9 PENALTIES

Civil Penalties. Any person in violation of any of the provisions of this Ordinance or any term or condition of a permit issued under this Ordinance shall be subject to a civil penalty, and upon adjudication, thereof shall be fined in an amount not less than fifty dollars (\$50) nor more than two hundred and fifty dollars (\$250) for each separate violation. The municipality may be awarded attorney's fees and costs incurred in enforcing this Ordinance. Each day such violation continues after the time for correction of the violation has been given in an order, shall constitute a continuing violation and the amount of fine shall be doubled for each day said violation continues, said fine not to exceed five hundred dollars (\$500) per day.

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ARTICLE 7 **Firearms Discharge Ordinance**

SECTION 1 PROHIBITIONS

No person shall discharge any firearm, including air rifles, air pistols or any rifle or pistol powered by CO2 or compressed air.

- A. In the Urban Compact area of the Town of Fairfield as defined by the State of Maine Department of Transportation. The Urban Compact Area is marked by use of Urban Compact signs installed by said Department of Transportation.
- B. In, upon or over any of the public lanes, courts, parks, or public squares situated within the Town of Fairfield.
- C. Within three hundred (300) yards of any built-up area as defined in M.R.S.A. Title 29A Section 2074—2 ss 1252 (3) (A).
- D. On any public lands of the Town of Fairfield.

SECTION 2 EXCEPTIONS

- A. Law enforcement officers in the performance of their duties.
- B. Military exercises, funerals, or reviews.
- C. At memorial events.
- D. In proper defense of one's self, family, or property.
- E. In destruction of a dangerous animal.
- F. Written permission from the Chief of Police or his/her designee for a specific event of a short duration or for a place that would not endanger or otherwise disturb the peace of the public.

SECTION 3 PENALTY

Whoever is found to have violated any section of this Ordinance shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than two hundred and fifty dollars (\$250.00) for each separate offense.

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ARTICLE 8 Parks and Playgrounds

SECTION 1 PROHIBITED ACTIVITIES INVOLVING PARKS AND PLAYGROUNDS

A. Buildings and other Property

1. Disfiguration and Removal. Willfully mark, disfigure, injury, tamper with, displace or remove any buildings, bridges, tables, benches, fireplaces, railings, paving, or paving material, water lines, or other public utilities or parts or appurtenances thereof, signs, notices or place-cards whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or maker property or appurtenances whatever, either real or personal.
2. Removal of natural resources. Dig or remove any sand, shrubs, or plants, timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.
3. Erection of structures. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or cross such lands, except on special written permit issued by the director.

B. Trees, Shrubbery and Lawns.

1. Injury and removal. Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers and seeds of any tree or plant. Nor shall any person attach a rope, wire or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grassy areas, or in ant other way injure or impair the natural beauty or usefulness of any areas.
2. Climbing trees. Climb a tree or walk, stand, or sit upon monuments, vases, fountains, railings, fences or upon any other property not designated or customarily used for such purposes.

SECTION 2 PROHIBITED ACTIVITIES INVOLVING SANITATION

No person in the park shall:

- A. Pollution of waters. Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pool, pond, stream, or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, manner or thing, liquid or solid, which will or may result in the pollution of said waters.

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- B. Refuse and trash. Have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where waste shall be carried away from the park by the person responsible for such presence, and properly disposed of elsewhere.
- C. Human waste. Urinate or defecate in or upon any park or playground within the Town of Fairfield.
- D. Tobacco. Dispose of any smoking materials including any tobacco products.

SECTION 3 PROHIBITED ACTIVITIES INVOLVING TRAFFIC

No person in a park shall:

- A. State motor vehicle laws apply. Failure to comply with all applicable provisions of the state motor vehicle laws with regard to equipment and operation of vehicles together with such regulations as are contained in this and other Town of Fairfield ordinances.
- B. Obey traffic signs. Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping, or parking, and all other posted for proper control and to safeguard life and property.
- C. Speed of vehicles. Ride or drive a vehicle at a rate of speed exceeding the posted speed for any park areas.
- D. Operation of vehicles. Drive any vehicle, excepting bicycles, on or in any area except public ways and paved park roads or parking areas, or such other areas may, on occasion, be specifically designated as temporary parking areas by the director, or the Chief of Police. Excepting bicycles, only vehicles properly licensed and registered for operation on public ways and operated by persons properly licensed under the laws of the State of Maine shall be permitted in any park area.
- E. Parking
 - 1. Designated areas. Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions thereat and with the instructions of any attendant who may be present.
 - 2. Night parking. Leave a vehicle standing or parked at night within any parking area from one half hour after sunset to one half hour before sunrise.
- F. Bicycles
 - 1. Confined to roads. Ride a bicycle on other than a paved vehicle road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle

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- by hand over any grassy area or wooden trail or any paved area reserved for pedestrian use.
2. Operation. Ride a bicycle other than on the right hand side of the road paving as close as conditions permit, and bicycles shall be kept in single file when two (2) or more are operating as a group. Bicyclists shall at all times operate their machines with a reasonable regard as to the safety of others, signal all turns, pass to the right of any vehicle they are overtaking, and pass to the right of any vehicle they may be meeting.
 3. Designated racks. Leave a bicycle lying on the ground or paving, or set against trees, or any place or position where other persons may trip over, or be injured by them.

SECTION 4 PROHIBITED ACTIVITIES INVOLVING RECREATION

No person in a park shall:

A. Bathing and Swimming

1. Designated areas. NO person shall frequent any waters or places customarily designated for the purpose of swimming or bathing, or congregate thereat in such activities prohibited by the director.
2. Certain hours. Frequent any waters or places designated for the purposes of swimming or bathing, or congregate thereat, except between such hours of the day and on such conditions as shall be designated by the director for such purposes for each individual park area.
3. Hunting and firearms. No person shall use, carry or possess firearms of any description or air rifles, spring guns, bows, and arrows, slings, or other forms of weapons potentially harmful to wildlife and dangerous to human safety or any other instrument that can be loaded with and fire blank cartridges, or any kind of trapping devise. Shooting in park areas as defined herein is strictly forbidden, except if issued a permit by the Chief of Police, or in accordance with the Town of Fairfield "FIREARM DISCHARGE ORDINANCE."
4. Camping. No person shall set up tents, shacks or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours, any movable structures or special vehicle that could be used for purposes such as a house trailer, camp trailer, tent or the like, except with the permission of the Chief of Police.

SECTION 5 PROHIBITED ACTIVITIES INVOLVING BEHAVIOR

No person in a park shall:

- A. Prohibited. Have brought alcoholic beverages, nor shall any person drink alcoholic beverages in any playground or park at any time.

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- B. Fires. Build or attempt to build a fire, except at such areas and under such regulations as may be designated by the Chief of the Fairfield Fire Department or his designee. No person shall drop, throw, or other wise scatter lighted matches, burning cigarettes or cigars, tobacco or other inflammable material, within the park or playground area or any highway, road or street abutting or contiguous thereto.
- C. Closed areas. Enter an area posted as “closed to the public”, nor shall any person use or let the use of an area in violation of posted notices.

SECTION 6 PROHIBITED ACTIVITIES INVOLVING VENDING AND PEDDLING

No person in a park shall: Expose or offer for sale any article or thing, nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such thing. Exception here is made as to any regularly licensed concessionaire acting by and under the authority and regulations of the Chief of Police.

SECTION 7 PLAYGROUND OPERATING POLICY

- A. Hours. Except as provided by Subsection B below, all playgrounds, as defined herein, shall be open to the public every day of the year from one half (1/2) hour before sunrise to one half (1/2) hour after sunset. The director shall cause notices of the opening and closing hours to be posted in each individual playground for the public information purposes.
- B. Closed Areas. Any section or part of any park or playground may be declared closed by the Director at any time for maintenance or repair.
- C. Entry prohibited. Except with written permission of the Director, no person shall enter, pass through, or remain in any playground, or the closed areas of such playground, except during the hours and times which such playgrounds, or portion thereof, are open to the public as provided in this section.

SECTION 8 ENFORCEMENT OF PROVISIONS

- A. Officials. The director and subordinate employees shall, in connection with their duties imposed by law, diligently enforce the provisions of this ordinance. In addition, the members of the Fairfield Police Department shall also have the authority to enforce the provisions of this ordinance.
- B. Ejection. The director, any subordinate employees, and the Fairfield Police Department shall have the authority to eject from any park or playground any person or persons acting in violation of this ordinance.

SECTION 9 CANINE WASTE

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- A. It shall be in violation of this ordinance for any person who owns, possesses, or controls a dog to fail to remove immediately and dispose of any feces left by his or her dog on or in any park or playground within the Town of Fairfield in a sanitary and lawful manner.
- B. The provisions of this section, entitled “Canine Waste”, shall be enforced by any designated representative of the Town of Fairfield health officer, the Director, or any of his subordinated employees, or any member of the Fairfield Police Department.
- C. Exemptions. This section, entitled “Canine Waste”, shall not apply to a dog accompanying any handicapped person who, by reason of his or her handicap, is physically unable to comply with the requirements of this section.

SECTION 10 ENFORCEMENT

The provisions of this ordinance shall be enforced by the Chief of Police, the Fire Chief, the Director of Public Works, and the Health Officer of the Town of Fairfield. The provisions of this ordinance shall be prosecuted at any hearing or trial by the Chief of Police and/or the town attorney.

SECTION 11 PENALTIES

Any person violating any provisions of this ordinance shall be fined not less than fifty dollars (\$50), nor more than two hundred and fifty (\$250) for each separate incident. Each day such violation is committed or permitted to continue shall constitute a separate violation and shall be punishable as such hereunder.

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ARTICLE 9

Dogs

SECTION 1 PURPOSE

This ordinance is adopted in the exercise of municipal home rule powers under the Maine Constitution and 30-A MRSA Section 3001. The purpose of this ordinance is to regulate dogs in the Town of Fairfield, to end the problems caused by dangerous dogs, dogs running at large, barking dogs, and property damage occasioned by dogs held to a minimum or eliminated, for the protection of the health, safety, comfort, convenience, and general welfare of the residents of the town, without unreasonably restricting owners and their dogs in their normal activities, while holding owners responsible, where it is appropriate to do so, for the deleterious conduct of their dog.

SECTION 2 DEFINITIONS

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

- A. “Attack”, “attacks”, and “attacking” means an unprovoked actual biting; they also mean, where they occur without provocation, a mere showing of the teeth, or growling or barking, or any combination of these acts, from which a person reasonably receives an impression of impending or imminent physical harm by the dog to himself or herself, to another or others, or to a domestic pet or farm animal.
- B. “Dog” includes both genders of dogs.
- C. “Owner” means any person or persons, firm, association, or corporation, or other legal entity amenable to civil process, owning, keeping, or harboring, or in possession of, or having the control of a dog, and includes the parent or parents, or guardian, of a minor who owns, keeps, harbors, or is in possession or control of a dog.
- D. “Dangerous dog” means the following, regardless of whether the dog is on or off the premises of its owner at the relevant time:
 - 1. A dog that attacks a person, regardless of whether it causes physical harm to the person, provided at the time of the attack the person is not trespassing with criminal intent on the owners premises.
 - 2. A dog that attacks a domestic pet or farm animal and causes harm to the domestic pet or farm animal.

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3. A dog that causes serious injury or death to an animal other than a domestic pet or farm animal. It is irrelevant to these definitions of a dangerous dog that an attack occurs outside the Town of Fairfield, or even outside the State of Maine.
- E. “Running at large” means off the premises of the dog’s owner and not under the control of an owner of the dog who is physically capable of controlling and restraining the dog by a leash, cord, or chain, or by “at heel” or other voice or other command control to which the dog is obedient.

SECTION 3 NUISANCE

Dangerous dogs, dogs running at large, and barking dogs are hereby declared to be a public nuisance.

SECTION 4 IDENTIFICATION

An owner shall ensure that the owner’s dog , if two months old or older and out of doors, whether on or off the premises of the owner, unless confined within a secure enclosure or container, wears a collar or harness which there must be securely attached an identification tag with the owner’s name, address (if any), and telephone number (if any). Alternatively, an owner may provide for identification by having the dog wear such a collar that is at all times clearly and legibly embroidered with the information required by this section, or by having the dog wear such an embroidered collar which in combination with one or more security tags shows the required information.

SECTION 5 RUNNING AT LARGE

Special restrictions governing dogs on municipal property. No owner of a dog shall cause or permit that dog to run at large within the town. A dog, while in or on the way or place other than a public way or other municipal property, shall be deemed to be under restraint within the meaning of this ordinance if it is otherwise if it is controlled by a leash, chord, or chain, or is “at heel” or otherwise under the voice or other command control of a person and obedient to that person’s command. An owner of a dog shall ensure that dog, when on any public way, and on all municipal property, including but not limited to the towns parks and public ways, municipal sidewalks and recreational and athletic fields, is on a leash or tether at all times and is accompanied by an owner who is physically or by effective voice or other command able to control and restrain the dog from an attack and who tends the leash or tether at all times while the dog is on municipal property, and who does not permit the dog to run at large on municipal property. An owner accompanying a dog on municipal property, other than an owner with visual acuity accompanying a Seeing Eye dog, so-called, on municipal property, shall collect any feces or vomitus deposited by the dog and dispose of the same in a sanitary lawful manner.

Nothing in this ordinance shall be held to require the leashing or restraint of any dog other than a dangerous dog while on the owner’s premises.

SECTION 6 DANGEROUS DOGS

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An owner who is given notice (which need not be in writing) by the town's Animal Control officer, any law enforcement officer, or any state official that the owner's dog has bitten or is reasonably believed to have bitten any person, or has or is reasonably believed to have in any way injured any person so as to cause an abrasion of the skin to that person, shall not without further written authorization by an officer or official, sell, give, or otherwise convey the ownership or possession of that dog, or remove or suffer or permit that dog to be moved beyond the boundaries of the town, except to or under the care of a licensed veterinarian, or of an animal control officer, or a law enforcement officer. An owner receiving such notice shall immediately place the dog under confinement for a period of at least 10 days and shall promptly obey all rabies detection and control directions of and animal control officer, licensed veterinarian, law enforcement officer, or state official concerning that dog. An owner receiving such notice shall comply with all applicable regulations of the Maine Commissioner of Agriculture and the Maine Commissioner of Human Services and their authorized officials, employees, and agents in matters of rabies detection and control.

SECTION 7 SPECIAL RESTRAINT OF DANGEROUS DOGS

An owner of a dog that has been determined by a court to be a dangerous dog shall ensure that the dog is restricted at all times to the premises of the owner, except when being transported by a secure motor vehicle to a veterinarian or to some other premises of that owner, or to the custody of an animal control officer or law enforcement officer. The owner of such a dog will ensure that the dog, when out of doors on the owners premises, is either contained within secure enclosure or is fastened with a secured latch to a reinforced chain restraint, the length of which is such that the dog may in no event approach any closer than three (3) feet to any mail receptacle or entrance or exit to a house or other building, end or edge of a driveway, walkway, stoop or stairs leading to an entrance, edge of a lawn, property boundary or public sidewalk, or home fill pipe or utility meter or point on the ground generally below any other wiring or piping. The owner shall ensure that the restraint is maintained and secure at all times the dog is out of doors on the owner's premises and not in a secure fenced in enclosure.

SECTION 8 BARKING DOGS

No owner of a dog shall suffer or permit that dog by loud, frequent, or habitual barking, howling, or yelping to disturb the peace of another person. [An incident of such disturbance of the peace not occurring not less than twelve (12) hours after another violation of this ordinance.]

SECTION 9 PENALTIES

For an initial violation of this ordinance by an owner, the owner shall be ordered to pay a penalty of not less than fifty dollars (\$50.00) nor more than two hundred and fifty dollars (\$250.00). In determining the amount to be forfeited the court shall consider any evidence in mitigation, extenuation, or aggravation it considers pertinent to the offense, including but not limited to the civility and degree of cooperation exhibited by the owner, the penalty shall be increased by a minimum of 50.00 above the penalty for the immediate proceeding violation. All penalties awarded, and all the sums recovered, shall accrue to benefit the Town Of Fairfield. An owner

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found to have violated this ordinance shall pay all fees and surcharges assessed or required by a court or court order or rule and shall pay court costs.

For purposes of illustration of the penalty provision only, if an owner were found, in a single court proceeding to have committed four violations, and if the penalty for the initial violation were set at \$100, then the penalties for the seceding violations would be \$150, \$200, and \$250, for a total of \$700 in penalties; similarly, if there occurred thereafter a second enforcement action for a new single violation against the same owner and if there were a finding of a violation, then the penalty for the violation would be \$300.

SECTION 10 PROCEDURE ON VIOLATION

Any law enforcement officer, on complaint of any person on his or her own initiative, may initiate prosecution for violation of this ordinance by filing a complaint with the Maine District court for the division that includes the Town of Fairfield and serving a summons and a copy of the complaint upon the owner. Any law enforcement officer certified by the Maine Criminal Justice Academy may represent the town in District Court in the prosecution of alleged violations of this ordinance. In the alternative, the municipal officers may, if they desire and if the funds are available, engage and appoint counsel to prosecute the alleged violations.

- A. **ORDER OF THE COURT.** If, upon hearing, the court determines that the ordinance has been violated, the court shall impose an appropriate penalty. If the court determines that a dog is a dangerous dog, the court may order the owner to muzzle the dog, and to restrain it, and confine it to the owner's premises; however, if the court finds that the dog has killed, maimed, or inflicted more than de minimis bodily injury upon a person, or upon a domestic pet or farm animal, or the court determines that the dog has a history of attacks, then the court should ordinarily order the dog to be euthanized. Such euthanasia shall be at the owner's expense.
- B. **FAILURE TO ABIDE BY A COURT ORDER.** An owner's failure to comply with an order issued pursuant to Paragraph A, immediately above, constitutes a violation of this ordinance, and may be punishable upon a new summons or as contempt, following issuance of a show cause order on affidavit of a law enforcement officer. If an order of euthanasia is not complied with by the time set by the court, the court may, upon application by any law enforcement officer or other person, upon notice to the owner, issue a warrant to any law enforcement officer or constable in the municipality where the dog is found to destroy the dog and make return of the warrant to the court within 14 days from the date of the warrant. The owner shall pay all costs of any supplementary proceedings and all reasonable costs for seizure and euthanasia of the dog. A failure to pay such costs by any time stated in the order of the court for making such a payment constitutes a distinct violation of this ordinance, which may also be punished on proceedings for contempt after issuance of a show cause order.
- C. **COMPLAINT FOR DOGS PRESENTING IMMEDIATE THREAT TO PUBLIC.** After filing a complaint in District Court and before hearing the dog shall be subject to muzzling, restraint, or confinement upon it's owners premises upon order of the law enforcement

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officer who filed the complaint to the owner, if that officer's belief that the dog poses immediate threat to the public. The officer may proscribe the degree and means of restraint or confinement. Failure to comply shall constitute a distinct violation of this ordinance. Upon failure to comply and after notice to the owner, the officer may apply to the district court for an order of authorization to take possession of the dog that poses immediate threat to the public and turn it over to the care of a suitable person or organization, at the owner's expense. The court in its final order shall include an order to the owner to pay such expense in a stated amount.

Nothing in this ordinance is intended to bar or limit the right of the individuals to make written complaint concerning dangerous dogs pursuant to State Law, or bar or limit any law enforcement officer from proceeding to act upon such a written complaint in accordance with the State Law.

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ARTICLE 10 **Fireworks**

SECTION 1 PURPOSE

The purpose of this ordinance is to regulate the use, sale, and storage of fireworks in the Town of Fairfield, and to prevent damage or injury caused by the use of fireworks. Possession, Use, Sale and Storage of Fireworks in the Town of Fairfield shall follow MRSA Title 8 ch. 9-A and this ordinance.

SECTION 2 DEFINITIONS

As used in this ordinance, the following items shall follow and have the same meaning as found in MRSA Title 8 ch. 9-A Sec 221-A:

- A. Display
- B. Fireworks
- C. Fireworks Technician
- D. Permit
- E. Person
- F. Possession
- G. Sale or Sell
- H. Special Effects Display
- I. Value

SECTION 3 USE RESTRICTED

- A. The use of fireworks of any type is restricted from all public property, including:
 - 1. Public Lands adjacent to Municipal or School Buildings and Facilities
 - 2. Parking Lots, Streets, and Public Ways
 - 3. Parks, Playgrounds, Athletic Fields, and Public Boat Landings
 - 4. Exception: Special Effects and/or Fireworks Displays for a public event may be authorized upon approval of the Chiefs of the Fire and Police Departments, and also by the State of Maine Fire Marshal's Office
- B. The use of fireworks within the Town of Fairfield shall conform to state laws that regulate the discharge of firearms, with the following exceptions:
 - 1. Fireworks shall be legal to use only on the following days:

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- i. A total of five days per year during the week of Independence Day, comprising the two days preceding and the two days following July 4th, including the holiday.
 2. Fireworks may only be used on days that are Fire Class 1 or 2.
 3. Use of fireworks within the urban compact shall be limited to ground displays. Aerial fireworks that are propelled by mortar or rocket are not permitted within the urban compact except that during Town-sanctioned public events a licensed professional may receive permission from the Town to conduct an aerial display.
- C. Aerial displays shall not be ignited within 100 feet of any neighboring structure not owned by the user, and Ground displays shall not be ignited within 25 feet of any neighboring structure, unless the user has gained permission from the property owner(s). Furthermore, the use of fireworks shall not cause debris or ashes to be deposited on any neighboring land or buildings without permission from the property owner(s). A “structure” is defined as anything built for the support, shelter or enclosure of persons, animals, or property.
- D. The time of day fireworks may be used shall conform to MRSA Title 8 ch. 9-A.

SECTION 4 PENALTIES

Those persons found to be in violation of this ordinance shall first receive a written warning. A second violation may warrant a fine of \$150. A third violation may warrant a fine of \$300. Any subsequent violation may warrant a fine of \$600.

SECTION 5 SALES AND STORAGE

As authorized under MRSA Title 8 ch. 9-A Sec. 223-A (2), a conditional use permit shall be required for a commercial enterprise to sell and/or store consumer fireworks. Applications for permits must meet:

- A. The requirements of MRSA Title 8 ch. 9-A Sec. 223-A, Sale of Consumer Fireworks
- B. Approval of the Town of Fairfield Planning Board
 1. Commercial enterprises seeking to sell and/or store consumer fireworks shall NOT be permitted to operate in any Village or Residential Zone as defined by the Town of Fairfield Land use Ordinance
- C. Approval of the Chiefs of the Police and Fire Departments

SECTION 6 EMERGENCY SERVICES RESPONSE

If the use of consumer fireworks requires the response of emergency services for injury, fire, or damage to property, the owner of the property from which the fireworks were ignited shall be liable for full reimbursement cost of such a response. This shall apply even if the injured person(s) or property owner is the responsible party. Billing may include any cost incurred by neighboring municipalities' departments responding through mutual aid.

SECTION 7 ENFORCEMENT

FAIRFIELD PUBLIC SAFETY ORDINANCE

- A. Any State or Local Fire Safety Official or Law Enforcement Officer may enforce State Law and this Ordinance
- B. See also: Town of Fairfield Ordinance # PD95-01 Prosecution of Town Ordinances

Article XIII was adopted by the Town Council on the 14th day of December, 2011.

ARTICLE 11

Bicycle Ordinance

SECTION 1 PURPOSE

The purpose of this Ordinance is to provide regulations, due to the considerable increase in the number of bicycles in the Town of Fairfield, to control all bicycles within the Fairfield jurisdiction, and mandatory annual reporting of information, in order to provide an identification record should any bicycle become stolen, and an annual inspection of bicycles prior to registration to insure safety to all riders.

SECTION 2 DEFINITIONS

- A. Bicycle: Every device propelled by human power upon which any person may ride, having a minimum of two tandem wheels, including but not limited to bicycles, motorized bicycles, or motorized tricycles.
- B. Driver: Every person who drives, operates, attempts to operate, or is in actual physical control of a device.

SECTION 3 SAFETY RULES

- A. Every driver of a bicycle shall exercise due care to avoid collision with any pedestrian and shall use audible signals when necessary, such as before overtaking and passing such pedestrian.
- B. Every driver of a bicycle shall exercise proper precaution upon observing a child or any obviously confused, incapacitated, or intoxicated person.
- C. Every person propelling a bicycle by human power or riding a bicycle shall have all of the rights and all of the duties applicable to the driver of any other vehicle and shall, when on a roadway, conform to all traffic laws, ordinances, and regulations.
- D. Every person propelling a bicycle by human power upon and along a sidewalk, or across a roadway upon and along a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances.
- E. The driver of a bicycle crossing a sidewalk or crosswalk shall yield the right of way to any pedestrian and all other traffic on the sidewalk.

FAIRFIELD PUBLIC SAFETY ORDINANCE

- F. No person shall drive any bicycle other than by human power upon a sidewalk except on a permanent or duly authorized temporary driveway.
- G. No person riding upon any bicycle shall attach the same or himself to any vehicle upon a roadway.
- H. Every person operating a bicycle on a roadway shall ride and adhere to the right side of the road as practical, except when making a left turn, and shall exercise due care when passing a standing vehicle or one proceeding in the same direction.
- I. Persons riding bicycles on a roadway should not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast shall not impede the normal and reasonable movement of traffic and, on a paved roadway, shall ride within the single lane.
- J. No person shall operate any bicycle that is not in such mechanical condition so as to be operated safely.
- K. No person operating a bicycle shall carry any package, bundle, or article which prevents the use of one hand in the control and operation of the bicycle. A person operating a bicycle shall keep at least one hand on the handlebars at all times.

SECTION 4 GENERAL PROVISIONS

- A. No person shall park a bicycle on a sidewalk as to impede the normal and reasonable movements of pedestrian traffic.
- B. Bicycle racing on highways is prohibited. Exception to this section may be waived with agreement of the Chief of Police.
- C. Every bicycle upon a highway within this town at any time from a half an hour after sunset to a half an hour before sunrise and at any other time when due to insufficient light, persons and bicycles on highways shall be equipped with a lamp on the front, emitting a white light visible from a distance of at least 500 feet to the front.
- D. Every bicycle, when in use between dusk and dawn, shall be equipped with reflective material of sufficient size and reflectivity to be visible from both sides for 600 feet.
- E. Every bicycle shall be equipped with brakes which will enable its driver to stop the bicycle within 25 feet from a speed of 10 miles an hour.
- F. A bicycle shall not be equipped with, nor shall any person use upon a bicycle, a siren or whistle.

SECTION 5 PENALTY FOR VIOLATION

FAIRFIELD PUBLIC SAFETY ORDINANCE

Any person of age 17 years or older who violates any of the provisions of this Ordinance shall, upon adjudication, be punished by a fine of not more than \$10.00 or by impounding of such person's bicycle for a period not to exceed 30 days or any combinations thereof. Such person so charged or ticketed may waive his rights to a Court appearance by paying a penalty of \$3.00 within 7 days of the violation, in person at the Fairfield Police Department, 74 Water Street, Fairfield, Maine or by mailing the notice with a check or money order payable to Fairfield Police Department, 74 Water Street, Fairfield, Maine 04937.

The Chief of Police of Fairfield, when satisfied that a juvenile under age 17 years has ridden a bicycle in violation of any of the provisions of this Ordinance, may impound the bicycle for a period not to exceed 5 days for the first offense, for a period not to exceed 10 days for a second offense, and for a period not to exceed 30 days for any subsequent offense.

FAIRFIELD PUBLIC SAFETY ORDINANCE

ARTICLE 12 Curfew Ordinance

SECTION 1 DEFINITIONS

- A. **Curfew Hours** means the hours from **11:00 p.m. until 5:59 a.m.** of the following day for those persons **fourteen years of age and older, but under eighteen years of age.**
- B. **Curfew Hours** means the hours from **9:00 p.m. until 5:59 a.m.** of the following day for those persons **under fourteen years of age.**
- C. Emergency means unforeseen circumstances, or the resulting situation, calling for immediate action. This includes, but is not limited to, fire, natural disaster, or vehicular accident, as well as any situation requiring action to avert serious injury or the loss of life.
- D. Guardian means a person or a public or private agency who, either pursuant to court order or acceptance of testamentary appointment, is the legal guardian of the minor. This definition also includes a person to whom parental powers have been delegated under 18-A M.R.S.A. § 5-104.
- E. Minor means any person who is seventeen years of age or younger.
- F. Parent means a person who is the natural parent, adoptive parent, or step-parent of the minor.
- G. Public place means a place located in the Town of Fairfield to which the public, or a substantial group of the public, has access, including, but not limited to, streets, highways, sidewalks, parking lots, vacant lots, parks, cemeteries, and the common areas in and about apartment buildings, office buildings, hospitals, schools, shops, and places of entertainment such as movie theaters.
- H. Remain means to linger or stay, as well as to refuse to leave when requested to do so by a police officer, or the owner or other person in control of a public place. This term also encompasses activities which may be mobile, such as walking, driving, and riding about in a public place.

SECTION 2 OFFENSES

- A. It shall be unlawful for a minor to remain in a public place during curfew hours without being directly supervised by a parent or legal guardian.

FAIRFIELD PUBLIC SAFETY ORDINANCE

- B. It shall be unlawful for a parent or guardian of a minor to knowingly permit, or to allow by exercising insufficient control, the minor to remain in a public place during curfew hours.

SECTION 3 DEFENSES

It is a defense to prosecution under Section 2 of this ordinance that the minor was:

- A. Involved in an emergency or on an errand necessitated by an emergency;
- B. Taking measures to protect himself/herself from injury whether perceived or actual;
- C. Engaged in an employment activity, or on the way to or from an employment activity, without any detour or stop except as necessary to drop off or pick up a co-employee;
- D. Travelling in a motor vehicle and there is no reasonable belief that a crime is being, or will be committed;
- E. Patronizing, or intending to patronize, an open commercial establishment, as permitted by a parent or guardian;
- F. On an errand directed by a parent or guardian, without any detour or stop;
- G. On the sidewalk abutting the minor's home, subject to parental control;
- H. Attending a school, religious, or governmental activity, which is supervised by adults, or traveling to or from such a school, religious, or governmental activity without detour or stop;
- I. Attending a recreational activity sponsored by the Town of Fairfield, a civic organization, or a similar entity, which is supervised by adults, or traveling to or from such an activity without detour or stop;
- J. Participating in physical activity or exercise, as permitted by a parent or guardian.
- K. Exercising rights protected by the First Amendment of the United States Constitution;
- L. Married, or otherwise legally emancipated.

SECTION 4 ENFORCEMENT

Before taking any action to enforce this ordinance, a police officer of the Fairfield Police Department shall ask the apparent offender's age. The officer may ask for proof of the apparent offender's age, and shall be justified in taking action to ascertain the apparent offender's age in the absence of identification, such as taking the apparent offender into custody while contacting his or her parent or guardian, or accompanying the apparent offender to his or her residence for the purpose of obtaining identification.

FAIRFIELD PUBLIC SAFETY ORDINANCE

If the apparent offender is a minor, or cannot produce identification proving otherwise immediately, the officer shall ask the reason for the apparent offender's being in a public place. The officer shall not take any action to enforce this section unless the officer reasonably believes that an offense has occurred and, based on any response as well as other circumstances, no defense provided in Section 4 is applicable. If the officer does have such a reasonable belief, the officer may take the minor into custody for the purposes of contacting the minor's parent or guardian, to come to take control of the minor. The police officer shall summons the minor and the minor's parent to the District Court for violation of this ordinance. During this period, the officer may require the minor or the minor's parent or guardian or both to remain in the officer's presence for a period of up to two hours, so long as the officer complies with all requirements of law, including, without limitation, 17-A M.R.S.A. §17.

SECTION 5 PENALTIES

Penalties shall be enforced only after the juvenile and parent have been notified and warned of the provisions of the Municipal Curfew Ordinance.

A. The penalty for a minor who violates this ordinance shall be:

1. For the first offense, five hours of community service and a fine of not less than \$25.00; and
2. For each subsequent offense, ten hours of community service and a fine of up to \$100.00.

B. The penalty for a parent or guardian who violates this ordinance shall be:

1. For the first offense, a fine of \$50.00; and
2. For each subsequent offense, a fine of \$100.00.

FAIRFIELD PUBLIC SAFETY ORDINANCE

ARTICLE 13

Severability

Should any portion of this ordinance be found invalid for any reason by a court of competent jurisdiction, then all portions not found invalid shall remain unaffected and continue in full force and effect.

A True Copy

Attest: _____
Town Clerk

Town Seal

RADIOACTIVE WASTE ORDINANCE

SECTION 1 PURPOSE

The regulations set forth in this Ordinance are adopted to:

- A. Provide for the protection of ground water and surface water quality through the control of radioactive waste handling, storage or disposal;
- B. Protect the health, safety and welfare of the citizens of the Town of Fairfield, Maine.

SECTION 2 LEGISLATIVE AUTHORITY

A. Authority

- 1. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VII of the Maine Constitution and Title 30-A, MRSA Section 3001.

B. Administration

- 1. The Town Council of the Town of Fairfield, Maine or its designee shall administer this Ordinance.

SECTION 3 REQUIREMENTS

A. Waste defined as radioactive waste materials by Title 38, MRSA Section 1451 Subsections 6 & 11, within the boundaries of the Town is prohibited.

B. Any request for an exception to the prohibition shall be submitted in writing to the Councilors and brought to the whole Town of Fairfield, acting as a body politic, to be voted on by all registered voters. Any person intending to construct or operate any temporary or permanent radioactive waste repository shall at least one year prior to commencing any construction or operation notify the Town Officers in writing of his or her intent and of the nature and location of the facility, together with any other information the Town Council may require.

SECTION 4 APPEALS

A. An aggrieved party or landowner may appeal a decision to Superior Court within thirty (30) days from the final decision in accordance with Rule 808 of the Maine Rules of Civil Procedure.

SECTION 5 AMENDMENTS

A. This Ordinance may be amended by a majority vote of the voters of the Town. Amendments may be initiated by a majority vote of Town voters or on petition of ten percent (10%) of the voters casting votes in the last gubernatorial election in the Town. The Council shall conduct a public hearing on any proposed amendment.

SECTION 6 SITE CHARACTERIZATION

A. Any testing or drilling pertaining to the siting of a high or low level radioactive waste repository within the town limits of Fairfield will be prohibited.

B. Any request for exception to this section shall be handled under Section 3 of the Radioactive Waste Ordinance, Subsection B.

SECTION 7 VIOLATIONS

A. Any violations of the Ordinance shall be dealt with under the provisions of Title 30-A, MRSA Section 4452.

B. It shall be the duty of the Town Council or its designee to immediately notify in writing any person responsible for violating any provision of this Ordinance and to order the action necessary to correct any such violations.

C. Legal action: When a violation of any provision of this Ordinance shall be found to exist, the Municipal Attorney, as designated by the Town Council, either on his own initiative, or upon the notice of the Town Council or its designee, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town.

D. Fines: Any person, firm, corporation or entity who violates any of the provisions of this Ordinance shall be guilty of a civil violation and on conviction shall be fined no less than \$100 nor more than \$2500. Each day such a violation is permitted to exist after the notification shall constitute an additional and separate offense.

SECTION 8 SEVERABILITY CLAUSE

If any provision of the Ordinance is held invalid, the other provisions of the Ordinance shall not be affected thereby. If the application of this Ordinance or any of its provisions to any person or circumstances is held invalid, the application of this Ordinance and its provisions to other persons or circumstances shall not be affected thereby.

Public Hearing Date: February 18, 1992

Adopted: March 3, 1992

Attest: Terry A. York, Town Clerk

Town of Fairfield, Maine Road Opening Ordinance

Section 01. Permit Required.

No person except the Director of Public Works or his Designee shall make or cause to be made any excavation or dig up paving in any street until applicant has paid the required fee and has received a written permit therefore from the Director of Public Works, except in an emergency, in which case such permit shall be secured within twenty-four (24) hours after the street has been opened.

Section 02. Record of Permits.

The Director of Public Works or such officer as the municipal officers may appoint shall be authorized to issue permits, shall keep a record of all permits granted by the Director, work done by the Town employees excepted.

Section 03. Fee Schedule.

A non-refundable fee of \$50.00, payable to the Town of Fairfield, shall be paid for openings made within the right-of-way of any accepted Town street or within the Urban Compact Zone.

For excavation and related construction work, a deposit fee shall be as follows:

Paved Surface	\$ 50.00 per Sq. Yard
Concrete Surface	\$ 75.00 per Sq. Yard
All other Surfaces	\$ 9.00 per Sq. Yard
Direct Buried Cable	\$ 0.20 per Lineal Foot
<i>Low impact, outside of travel way/shoulder</i>	
Curb Replacement	\$ 10.00 per Lineal Foot
Driveway Entrance	\$35.00 per Entrance

Large scale non-residential projects ~The contractor/owner can request that a portion of the deposit fee be covered by providing a performance bond in the amount of the work and establishing an escrow account in the amount, at minimum, of 10% of the work.

Deposit Fee Returns

- (1) Except as noted in (2) below, upon review and acceptance by the Director of Public Works, and after 90 days from the completion of the work, 90% of the deposit shall be refunded. If any part of the work is found to be defective, the contractor/owner shall be given a 24 hour deadline to correct the problem(s). If the corrective work is not completed within that time period, the deposit shall be forfeited and the town authorized to complete the work in accordance with Section 15.
- (2) To ensure quality of work and warranty of placed materials. All non-residential work, meaning and intending work not for the benefit of a single private Fairfield citizen will be subject to performance bonds and/or retainage of 20% of the deposit for a length of time equal to a minimum of 1 year from date of completion. Remaining 10% deposit to be returned upon review and acceptance by the Director of Public Works after the 1 year period.

Quasi-municipal utilities, including Kennebec Water District and Kennebec Sanitary Treatment District, shall be exempt from paying deposit fees for a permit, but are required to pay the Town for administrative costs associated with project inspection and are subject to Section 15.

Section 04. Qualifications of Applicant.

Before any permit shall be issued, the applicant shall satisfy the Director of Public Works that the applicant possesses the financing, insurance, knowledge, skill, equipment, and material to perform the complete scope of the work.

Section 05. Planning, Inspection, and Approval Procedures.

Before any permit shall be issued, a plot plan and a time schedule for any street opening shall be filed with the Director of Public Works. The work in progress shall be open to the Director of Public Works and his/her designated inspectors for the purpose of inspecting and enforcing the provisions of this Ordinance and other applicable regulations. Upon completion of any project, the Director of Public Works shall inspect the resurfacing to determine whether it meets the standards set forth by this ordinance. For large-scale projects, the Director of Public Works, at his/her sole discretion, may require the contractor to pay the cost of a Town approved third party inspector to represent the Town during construction.

Section 06. Excavation Requirements.

All pavement shall be cut before excavation in such manner that the road surface shall be exposed in a clean, sharp, straight edge. Trench sides shall be shored so as to

prevent any fall-out from under the undisturbed pavement. All safety equipment necessary to perform the work in a safe, workmanlike manner will be followed.

Section 07. Backfilling.

Backfilling shall consist of placing suitable material in all spaces excavated and not occupied by drainage or other underground structures, up to the existing surface level at the bottom layer of existing asphalt. Backfill material shall consist of fine, readily compressible soil or granular material, near optimum moisture content, and shall not contain large stone, frozen material, or any other objectionable material. The final 18" of fill under road surfaces, shoulders or sidewalks shall consist of graded gravel to the specification of the Director of Public Works. All material shall be distributed in not more than 12" layers, and each layer compacted by approved compaction methods before another layer is placed. Water may be added only to improve mechanical compaction. All sheeting and bracing material must be removed as backfill operation is in progress.

Section 08. Replacement of Surface.

Paved surfaces shall be repaired temporarily with an approved cold patch to a compacted depth of 3", rounding about 1" above the existing pavement surface. Shoulders shall be brought level with existing grades with coursed gravel. Surfaces outside the pavement line, but within the right-of-way shall be filled to existing grade to match existing material. Lawn surfaces within the right-of-way shall be finished with 6" of loam, raked, seeded and rolled. All trenches shall be repaved or resurfaced within thirty (30) days or less at the contractor's expense, and shall be paved back to the existing thickness of the pavement with a minimum of 2" of base pavement and at least 1" of surface.

Section 09. Responsibility of Maintenance.

It shall be the responsibility of the contractor, utility, and/or permit-holder to repair any trench settling for three (3) years from the date of paving.

Section 10. Responsibility of Safety.

After excavation and before permanent pavement, the trench remains the responsibility of the contractor and/or permit-holder. When a person is permitted, in accordance with the provisions of this Ordinance, to occupy any part of a street for building purposes, such person shall erect and maintain around the part so occupied, a sufficient fence to prevent injury to persons, animals or vehicles passing the premises, and keep the same property lighted at night. Temporary sidewalks shall be provided when requested by the Director of Public Works. If the road will be temporarily closed due to construction, it is the contractor's responsibility to notify the Fairfield Police Department, Public Works Department, Fire Department and the M.S.A.D. #49 Bus Garage.

Section 11. Unaccepted Streets and New Construction.

Permits shall not be required on unaccepted streets or new construction, but the requirements of Section 07 shall be in effect on any project under the jurisdiction of the Director of Public Works.

Section 12. Street Openings Beyond the Scope of this Ordinance.

It is the intent of this article to authorize the Director of Public Works to control all excavation, backfill, and surface procedures within any Town right-of-way. The fee schedule is based on a value that will incur no cost to the Town. Large project costs may be negotiated with the Director of Public Works, and a permit issued to an applicant at a cost of less than that specified in Section 03, this cost to be actual cost to the Town for inspection. Surfacing on large projects may be performed by a contractor or applicant approved by the Director of Public Works. No project under twenty (20) square yards of surface opening shall be deemed "large."

Section 13. Unpaved Streets and Roads.

Street openings and unpaved streets and roads shall conform to all the sections of this Ordinance with the following exceptions:

- (A) Under Section 08, the requirement for applying cold patch shall not pertain. Gravel surface shall be brought slightly above existing roadbed and compacted.
- (B) Under Section 06, it will not be necessary to cut the road surface before excavation.

Section 14. Winter Openings.

Any road or sidewalk opening after October 1st shall be paved immediately after project completion. No permits shall be issued between October 31 and March 31, except on an emergency basis, to be determined by the Director of Public Works.

Section 15. Penalties Provided.

If a person or firm improperly repairs or fills an opening, the municipal officers or their appointees may have the work redone properly and shall keep an account of the cost of redoing this work.

A person or firm in default shall pay a penalty equal to the cost of redoing the work plus 50%, but in no case shall the total of work and penalty be less than \$100.00. After the work is completed and the cost of the work is determined, the municipality may not issue a new permit to a person or firm in default until it has received, in addition to the fees provided in Section 3 and the amount of the penalty provided in this section.

Adopted by the Town Council on June 15, 2011, and amended on June 12, 2013, April 9, 2014, April 13, 2016, and May 25, 2016.

Robert Sezak, Chairman

John Picchiotti, Vice-Chairman

Michael Taylor, Secretary

Aaron Rowden

Stephanie Thibodeau

ATTEST, A True Copy,

Christine Keller, Town Clerk

Appendix A

<i>Town of Fairfield Utility Separations</i>		
Utilities	Minimum Separation	Recommended Separation
Water and sewers	6 feet	10 feet
Water and storm drains	6 feet	10 feet
Water and natural gas	6 feet	10 feet
Water and electric	6 feet	6 feet
Water and telephone/cable	6 feet	6 feet
Sewer and storm drains	6 feet	10 feet
Sewer and natural gas	6 feet	6 feet
Sewer and electric	6 feet	6 feet
Sewer and telephone/cable	6 feet	6 feet
Storm drains and natural gas	4 feet	6 feet
Storm drains and electric	4 feet	6 feet
Storm drains and telephone/cable	4 feet	6 feet
Electric and natural gas	4 feet	4 feet
Electric and telephone	4 feet	4 feet
Telephone, cable and natural gas	4 feet	4 feet

Separation distances include from utility poles. These separation distances are from outside edge to outside edge of utilities.

SEWER USE ORDINANCE

ARTICLE I PURPOSE

The purpose of this ordinance is to promote the health and general welfare of the citizens of the Town of Fairfield by regulating and restricting the construction and use of sewerage systems and the accumulation, transportation, treatment and disposal of sewage in such a manner that the creation of any sewerage system, whether public, private or industrial, shall not result in pollution, health hazard or other nuisance.

ARTICLE II SCOPE

Hereafter any person owning any building or structure within the Town of Fairfield which is the source of sewage and/or industrial wastes or who proposes to erect such building or structure shall conform to the requirements of this ordinance.

ARTICLE III DEFINITIONS

Unless the context specifically indicates otherwise the meaning of terms used in this ordinance shall be as follows:

Section 1 "Town" shall mean the Town of Fairfield, Maine.

Section 2 "Town Council" shall mean the duly elected Town Council of the Town of Fairfield.

Section 3 "Superintendent" shall mean the Superintendent of the Sewer Department of the Town of Fairfield, Maine, who is also the Director of Public Works, or his authorized representative.

Section 4 "Engineer" shall mean a Professional Engineer retained by the Town of Fairfield.

Section 5 "Plumbing Inspector" shall mean the Plumbing Inspector of the Town of Fairfield, Maine.

Section 6 "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter.

Section 7 "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning eight (8) feet outside the inner face of the building wall.

Section 8 "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

Section 9 "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.

Section 10 "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

Section 11 "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Section 12 "Natural Outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

Section 13 "Person" shall mean any individual, firm, company, association, society, corporation, or group.

Section 14 "PH" shall mean the logarithm of the reciprocal of the weight of Hydrogen ions in grams per liter of solution.

Section 15 "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half () inch in any dimension.

Section 16 "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Section 17 "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

Section 18 "Sewage" shall mean a combination of the water—carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

Section 19 "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.

Section 20 "Sewage Works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

Section 21 "Sewer" shall mean a pipe or conduit for carrying sewage.

Section 22 "Shall is mandatory; "May" is permissive.

Section 23 "Storm Drain" (sometimes termed "Storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Section 24 "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

Section 25 "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Section 26 "Appeals Board" shall mean that Board appointed according to provision of Article XI.

Section 27 "Developer" shall mean any Person or Persons who undertake to construct simultaneously or in planned sequence more than one housing unit on a given tract or land subdivision.

Section 28 "Industrial User" shall mean any person connected to a public sewer and discharging industrial waste.

Section 29 "Categorical Pretreatment Standards" shall mean discharge limitations for specific industrial user categories promulgated by the U.S. Environmental Protection Agency under Sections 307 of the Act.

Section 30 "Interfere" shall mean an inhibition or disruption of the treatment works, its treatment processes or operations, or its sludge processes, use or disposal which is a cause of or significantly contributes to either a violation of any requirement of the NPDES permit (including an increase in the magnitude or duration of a violation) or to the prevention of sewage sludge use or disposal in accordance with the following Statutory provisions and regulations or permits issued there under (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (more commonly referred to as the Resource Conservation and Recovery Act (RCRA) and including State Regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, and the Toxic Substances Control Act. A user significantly contributes to such a permit violation or prevention of sludge use or disposal violation or prevention of sludge use or disposal in accordance with above-cited authorities whenever such user:

- 1) Discharges a daily pollutant loading in excess of that allowed by contract with the Town or by Federal, or State law;
- 2) Discharges waste water which substantially differs in nature or constituent from the user's average discharge, or;
- 3) Knows or has reason to know that its discharge, alone or in conjunction with discharges from other sources, would result in a permit violation or prevent sewage sludge use or disposal in accordance with the above-cited authorities as they apply to the selected method of sludge management.

Section 31 "Slug Loading" shall mean discharge at a flow rate or pollutant concentration that may interfere with the public sewer or wastewater treatment facilities.

Section 32 "KSTD" shall mean the Kennebec Sanitary Treatment District.

ARTICLE IV

Section 1 It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Town of Fairfield, or in any area under the jurisdiction of said town, any human or animal excrement, garbage, or other objectionable waste.

Section 2 It shall be unlawful to discharge to any natural outlet within the Town of Fairfield, or in any area under the jurisdiction of said town, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

Section 3 Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

Section 4 The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes requiring the disposal of sewage situated within the town and abutting on any street, alley, or right-of-way in which there is located a public sanitary sewer of the town, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that said, public sewer is within one hundred (100) feet of the property line as measured along any public way. When gravity flow cannot be obtained from the building or the property, the connection to said public sewer is not required. However, this does not preclude waste flows from

being pumped to the public sewer should the property owner so wish.

ARTICLE V PRIVATE SEWAGE DISPOSAL

Section 1 Where a public sanitary sewer is not available under the provisions of Section 4, Article IV, the building sewer shall be connected to a private disposal system complying with State Law and the rules and regulations of the Maine Departments of Health and Human Services and Environmental Protection dealing with septic tank installations and system operation.

Section 2 Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Plumbing Inspector. The application for such permit shall be made on an HHE-200 SUBSURFACE WASTEWATER DISPOSAL SYSTEM APPLICATION form as required by the State of Maine, and other information as deemed necessary by the Plumbing Inspector.

Section 3 A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Plumbing Inspector. The Plumbing Inspector shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Plumbing Inspector when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the Plumbing Inspector.

Section 4 The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Town.

Section 5 No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.

Section 6 When a public sewer becomes available, the building sewer shall be connected to the public sewer upon the failure of the private septic system and within ninety days (90) after date of official notice. The private septic tank or cesspool shall be cleaned of sludge and filled with clean bank run gravel or dirt, as soon as possible, and not to exceed 180 days.

Section 7 The contents from septic tanks of Fairfield properties or boat holding tanks located anywhere in Fairfield must be trucked to the KSTD. A fee set by the KSTD shall be paid directly to the KSTD prior to discharge.

ARTICLE VI BUILDING SEWERS AND CONNECTIONS

Section 1 No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first

obtaining a written permit from the Superintendent.

Section 2 There shall be two (2) classes of building sewer permits; (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the Town. This permit application shall be supplemented by any plans specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of \$25.00 for a residential or commercial building sewer permit and \$50.00 for an industrial building sewer permit shall be paid to the Town at the time the application is filed.

Section 3 All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Section 4 A separate and independent sewer shall be provided for every building; except where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley courtyard, or driveway, the Building sewer from the front building may be extended to the rear build in and whole considered as one building sewer except for purposes of Article XII and if approved by the Superintendent.

Section 5 Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this ordinance.

Section 6 The building sewer shall be tar-coated polyvinylchloride (PVC) pipe conforming to the following standards: PVC pipe shall be schedule 40 or SDR 35 or ASTM D3034.

Section 7 The diameter of the building sewer shall not be less than four (4) inches nor shall the slope of the pipe be less than one-quarter (1/4) in. per ft.

Section 8 The depth of building sewers installed after January 1, 1973 shall be sufficient to afford protection from frost, but in no event shall be less than three (3) feet. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. The ends of building sewers which are not connected to the building drain of the structure for any reason, shall be sealed against infiltration by a suitable stopper, plug, or other approved means.

Section 9 In all buildings, constructed after January 1, 1973, in which any building drain is too low to permit gravity flow to the public sewer, sewage or industrial wastes carried by such drain shall be lifted by approved mechanical means (pumped) and

discharged to the building sewer. The pump and facility shall be installed on private property and owned and operated by the property owner.

Section 10 All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Superintendent. Pipe laying and backfill shall be performed in accordance with ASTM Specifications except that no backfill shall be placed until the work has been inspected and except that trench width measured at the top of the installed pipe shall not exceed twenty—four (24) inches.

Section 11 All joints and connections shall be made gas tight and water tight. The transition joint between pipes of different materials shall be made with adaptors and joint materials approved by the Superintendent. Pre-molded gasket joints shall be used and shall be neoprene compression type gaskets which provides a positive double seal in the assembled joint. The gasket shall be a pre— molded, one piece unit designed for joining the pipe material used. The assembled joint shall be sealed by compression of the gasket between the exterior surface of the spigot and the interior surface of the hub. The joint shall be assembled and special pipe coupling tools designed for that purpose. Lubricant shall be a bland, flax base, non-toxic material, and shall not chemically attack the gasket material.

Section 12 The connection of the building sewer into an existing public sewer shall be made at the existing public sewer. All costs and expense incidental to the installation and connection of the entire length of building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The method of connection of the building sewer to the public sewer will be dependent upon the type of pipe material used and in all cases shall be approved by the Superintendent. The connection of the building sewer into the public sewer shall be made at the "Y" or "T" branch. If none is available a connection may be made by tapping the existing sewer by a method approved by the Superintendent.

Section 13 The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent.

When trenches are opened for the laying of building sewer pipes, such trenches shall be inspected by the Superintendent before the trenches are filled; and the person performing such work shall notify the Superintendent when the installation of the building sewer is completed. If the trench is filled before inspection, the Superintendent shall require it to be re-excavated for inspection.

Section 14 When any building sewer is to serve a school, hospital, or similar institution or public building, or is to serve a complex of industrial or commercial buildings, or which, in the opinion of the Superintendent will receive sewage or industrial wastes of such volume or character that frequent maintenance of said building sewer is

anticipated, then such building sewer shall be connected to the public sewer through a manhole. The Superintendent shall determine if and where this type of connection to the public sewer is required. Connections to existing manholes shall be made as directed by the Superintendent. If required a new manhole shall be installed in the public sewer pursuant to Article VII, Section 3 and the building sewer connection made thereto as directed by the Superintendent.

Section 15 All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, park— ways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Superintendent.

ARTICLE VII SEWER EXTENSION

Section 1 Sewer extensions, including individual building sewers from the sewer to the property line, may be constructed by the Town under public contract if, in the opinion of the Town Council, the number of properties to be served by such extension warrants its cost. Under this arrangement the property owner shall pay for and install the building sewer from the public sewer to his residence or place of business in accordance with the requirements of Article IV. Property owners may propose sewer extensions within the incorporated town by drafting a written petition, signed by a majority of the benefiting property owners, and filing it with the Town Council. The cost of such extensions may be assessed to the benefited property owners in any manner determined by the Town Council.

Section 2 If the town does not elect to construct a sewer extension under public contract, the property owner, builder or developer may construct the necessary sewer extension, if such extension is approved by the Town Council in accordance with the requirements of Section 1. The property owner must pay for the entire installation, including all expenses incidental thereto. Each building sewer must be installed and inspected as previously required and the inspection fees shall be paid. Design of sewers shall be as specified in Section 3, Article VII. The installation of the sewer extension must be subject to periodic inspection by the Superintendent and the expenses for this inspection shall be paid for by the owner, builder or developer. The Superintendent's decisions shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass the exfiltration test required in Section 4, Article VII before it is to be used. The cost of sewer extension thus made shall be absorbed by the developers or the property owners, including all building sewers.

Section 3 Sewer design shall be in accordance with the following provisions. Pipe material shall be polyvinylchloride (PVC). No standard strength clay pipe or concrete pipe shall be used. Minimum internal pipe diameter shall be 8 inches. Joints for each kind of pipe shall be designed and manufactured such that "O" ring gaskets of the "snap— on" type are employed. Gaskets shall be continuous solid natural or synthetic

rubber and shall provide a positive compression seal in the assembled joints such that the requirements of Section 4, Article VII are met. Joint preparation and assembly shall be in accordance with the manufacturer's recommendations. Wye or Tee branch fittings shall be installed for connection to building sewers in accordance with Section 4, Article VI. Trench widths, as measured just above the crown of the pipe, shall not exceed $4/3$ O.D. + 1.5 ft. If the trench widths are found during field inspection to exceed the above limits the sewer pipe shall be encased with a minimum of 6 inches of concrete. Pipe shall be firmly and evenly bedded on a minimum of 6 inches of free draining granular base with a stone size not exceeding 1 inch. Pipe thickness and field strength shall be calculated on the following criteria:

Safety Factor 1.9

Load Factor 1.7

Weight of Soil 120 lbs. per cu. ft.

Wheel Loading 16,000 lbs.

Utilizing the above information, the design shall then be made as outlined in Chapter IX of the Pollution Control Federation Manual, Practice No. 9 "Design and Construction of Sanitary and Storm Sewers."

Manholes shall be constructed at all changes in slope or alignment or at intervals not exceeding 400 linear feet. The manholes shall be constructed with 4 ft. diameter monolithic pre-cast base sections and 4 ft. diameter pre-cast concrete manhole barrel sections with concentric tapered top sections as specified by ASTM Specification 0-478. The tongue and groove in manhole sections shall be formed of concrete so as to receive an "O" ring rubber gasket, or Ram-Nek joint, as required by the Superintendent. The manhole frame and cover shall be as approved by the Superintendent and shall be set with no less than two courses of brick underneath to allow for later adjustments and elevations. All manholes shall be constructed with forged aluminum safety type steps cast into the walls of the precast sections.

Section 4 Leakage in the gravity sewers shall not exceed 100 gals, per in. dia. per day per mile of pipe when tested by either internal pressure or external pressure means. Where ground water is high the Superintendent may elect to accept infiltration measurements in lieu of exfiltration tests. All manholes shall be tested as to water tightness, if required by the Superintendent as follows:

The inlet and outlet of the manhole shall be plugged by watertight plugs and the manhole shall have 4 feet of water placed therein. The water shall remain for sufficient time to allow for absorption into the concrete pipe. The amount of water loss from the manhole shall then be determined. The rate shall not exceed 5 gals. per manhole per 24 hours for 4 ft. diameter manholes. All infiltration leaks shall be repaired by excavation outside of the manhole if required.

If approved by the Superintendent, a low pressure air test may be used to test the gravity sewers. The test shall be performed using the equipment stated below, according to stated procedures and under the supervision of the Superintendent.

The equipment used shall meet the following minimum requirements:

- (a) Pneumatic plugs shall have a sealing length equal to or greater than the diameter of the pipe to be inspected.
- (b) Pneumatic plugs shall resist internal test pressures without requiring external bracing or blocking.
- (c) All air used shall pass through a single control panel.
- (d) Three individual holes shall be used for the following connections:
 - 1. From control panel to pneumatic plugs for inflation.
 - 2. From control panel to sealed line for introducing the low pressure air.
 - 3. From sealed line to control panel for continuously monitoring the air pressure rise in the seal line.

After a manhole to manhole reach of pipe has been backfilled and cleaned the plugs shall be placed in the line at each manhole and inflated to 25 PSIG. Low pressure air shall be introduced into the sealed line until the internal air pressure reaches 4 PSIG greater than the average back pressure of any ground water that may be over the pipe. After this stabilization period (3.5 PSIG minimum pressure in the pipe), the air hose from the control panel to the air supply shall be disconnected. The portion of line being tested shall be termed acceptable if the time required in minutes for the pressure to decrease from 3.5 to 2.5 PSIG (greater than the average back pressure of any ground water that may be over the pipe) shall not be less than the time shown for the given diameters in the following table:

<u>Pipe Diameter (inches)</u>	<u>Minutes</u>
4	2.0
6	3.0
8	4.0
10	5.0
12	5.5
15	7.5
18	8.5
21	10.0
24	11.5

In areas where ground water is known to exist its height over the invert of the pipe shall be determined. The height in feet shall be divided by 2.3 to establish the pounds of pressure that will be added to all readings (i.e. if the height of water is 11 ½ ft. then the added pressure will be 5 PSIG. The allowable drop of 1 lb. and the timing remain the same).

All testing of sewer shall be conducted in the presence of the Superintendent. If the installation fails any test, the source of leakage shall be found and repaired and all defective materials shall be replaced.

Section 5 All sewer extensions constructed at the property owner's, builder's or developer's expense, after final approval and acceptance by the Superintendent, shall become the property of the town and shall thereafter be maintained by the town. Said sewers, after their acceptance by the town, shall be guaranteed against defects in materials or workmanship for twelve (12) months. The guarantee shall be in the form of a maintenance guarantee bond in an amount not less than 10% of the Engineer's estimate of the cost of the extension.

Section 6 No builder or developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities within the town, unless a suitable and approved method of sewage disposal is proposed.

ARTICLE VIII USE OF PUBLIC SEWERS

Section 1 No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, sub- surface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer except in those instances where private associations have allowed storm water connections to be made to their sewer and which associations have deeded their rights to the town.

Section 2 Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, or natural outlet.

Section 3 Except as hereinafter provided, no person shall discharge or cause to be discharged, any of the following described waters or wastes to any public sewer:

- (a) Any liquid or vapor having a temperature higher than 104 degrees F.
- (b) Any waters or wastes which contain grease or oil or other substances that will solidify or become discernibly viscous at temperatures between 32 and 104 degrees F.
- (c) Any waters or wastes containing fats, grease, or oils, whether emulsified or not, exceeding an average of 50 parts per million (417 pounds per million gallons) ether soluble matter, including waters or wastes from grease traps.

d) Any gasoline, benzine, naphtha, fuel oil, mineral oil, or other flammable or explosive liquid, solid, or gas.

(e) Any noxious or malodorous gas such as hydrogen sulfide, sulfur dioxide or nitrous oxide or other substance, which either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

(f) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of 3/4 horsepower or greater shall be subject to the review and approval of the Superintendent.

(g) Any ashes, cinder, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, cardboard, wood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, beer or distillery slops, whey, chemical residues, paint residues, cannery waste, bulk solids, or any other solid or viscous substance capable of causing obstruction to the flow of the sewers, or other interference with the proper operation of the sewage works.

(h) Any waters or wastes, acid and alkaline in reaction, having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewage works. Free acids and alkalis must be neutralized, at all times, within a permissible pH range of 6.0 to 9.5.

(i) Any cyanides, in excess of 2 parts per million by weight as CN.

(j) Any long half-life (over 100 days) of toxic radioactive isotopes, without a special permit.

(k) Any waters or wastes that for a duration of 15 minutes has a concentration greater than 5 times that of "normal" sewage as measured by suspended solids and B.O.D. and/or which is discharged continuously at a rate exceeding 1,000 gallons per minute except by special permit. Normal sewage shall be construed to fall within the following ranges:

<u>Constituents</u>	<u>Permissible Range</u>
Suspended Solids	180 to 350 ppm
B.O.D.	140 to 300 ppm
Chlorine Requirements	5 to 15 ppm

(l) Any storm water, roof drains, spring water, cistern or tank overflow, footing drain, discharge from any vehicle wash rack or water motor, or the contents of any privy vault, septic tank or cesspool, or the discharge or effluent from any air conditioning machine or refrigeration unit except as provided in Article VIII,

Section 1.

(m) No person shall discharge or cause to be discharged any waters or wastes in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters or the effluent of the Town's sewage treatment plant. Such toxic substances shall be limited to the average concentrations listed hereinafter in the sewage as it arrives at the treatment and at no time shall the hourly concentration at the sewage treatment plant exceed three times the average concentration. If concentrations listed are exceeded, individual establishments will be subject to control by the Engineer in volume and concentration of wastes discharged.

For Limits of Toxic Substances in Sewage, refer to KSTD Local Limit, Appendix B.

Section 4 Grease, oil and sand interceptors shall be provided when the above set limits or those substances are exceeded or when, in the opinion of the Superintendent or Engineer, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Engineer, and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gas-tight and water-tight.

Section 5 Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times and shall be readily accessible and open to inspection by the Superintendent at any time.

Section 6 The admission into the public sewers of any waters or wastes having (a) a 5 day Biochemical Oxygen Demand greater than 300 parts per million or (b) containing more than 350 parts per million of suspended solids, or (c) containing more than 15 parts per million of chlorine requirement, or (d) containing any quantity of substances having the characteristics described in Section 3, Article VIII or (e) having an average daily flow greater than 2% of the average daily sewage flow of the Town, shall be subject to the review and approval of the Engineer. There necessary, in the opinion of the Engineer, the owner shall provide, at his expense, such preliminary treatment as may be necessary to, (1) reduce the Biochemical Oxygen Demand to 300 parts per million and the suspended solids to 350 parts per million by weight, or (2) reduce the Chlorine requirements to 15 parts per million, or (3) reduce objectionable characteristics or constituents to within the maximum limits provided for in Section 3, or (4) control the quantities and rates of discharge of such waters or wastes. Plans, specifications,

and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Engineer, and no construction of such facilities shall be commenced until said approvals are obtained in writing. Failure to comply with one or more of the remedial procedures as required by the Engineer will constitute a violation of this ordinance. In addition to the aforementioned limits set by the Town of Fairfield, additional limits may be set by the KSTD.

Section 7 Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

Section 8 When required by the Engineer, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Engineer. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

Section 9 All measurements, tests, and analyses of the Characteristics of waters and wastes to which reference is made in Sections 3 and 6, shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage," upon suitable samples taken at control manhole provided for in Section 8. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

Section 10 No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore by the industrial concern.

Section 11 All of the preceding standards are to apply at the point where the industrial wastes are discharged into the public sanitary sewerage system and any chemical or mechanical corrective treatment required must be accomplished to practical completion before the wastes reach that point. The laboratory methods used in the examination of all industrial wastes shall be those set forth in the latest edition of "Standard Methods for the Examination of Water and Sewage," published by the American Public Health Association. However, alternate methods for the analysis of industrial wastes may be used subject to mutual agreement between the Town Council and the producer of such wastes. The frequency and duration of the sampling of any industrial waste shall not be less than once every three months for a 24 hour period. However, more frequent and longer periods may be required at the discretion of the Town Council.

ARTICLE IX MISCELLANEOUS INDUSTRIAL PRETREATMENT REQUIREMENTS

Section 1 All persons discharging wastes into the public shall comply with applicable requirements of federal and state industrial pretreatment regulations and the Industrial Pretreatment Program of the KSTD.

Section 2 Industrial users shall comply with federal and state general pretreatment standards and applicable categorical pretreatment standards. Such noncompliance with categorical standards shall be achieved within three years of the date such standard is effective, unless a shorter compliance time is specified, but in no case later than July 1, 1984.

Section 3 The Superintendent may, after formal notice to the public sewer user, immediately halt or prevent any discharge of pollutants reasonably appearing to present an imminent endangerment of the health and welfare of persons, or any discharge presenting, or which may present, endangerment to the environment, or which threatens to interfere with operation of the public sewer or wastewater treatment facilities. Actions which may be taken by the Superintendent include seeking ex-parte temporary judicial injunctive relief, entry on private property to halt such discharge, blockage of a public sewer to halt such discharge, or demand of specific action by the discharger.

Section 4 The Superintendent shall investigate instances of non-compliance with industrial pretreatment standards and requirements, as requested by the KSTD.

Section 5 Within 180 days after the effective date of a categorical pretreatment standard, existing industrial users subject to such standards shall submit to the KSTD an application for a categorical permit containing information required under applicable federal and state industrial pretreatment regulations. Such information, as a minimum, shall include:

1. The name and address of the facility, including the name of the operators and owners;
2. A list of all environmental permits held by or for the facility;
3. A brief description of the nature, average rate of production, and Standard Industrial Classification of the operations carried out at such facility;
4. A schedule of actions to be taken to comply with the categorical standards;
5. Information showing the measured average daily and maximum daily flow, in gallons per day, to the public sewer from regulated process streams and from other streams;
6. An identification of the industrial pre-treatment standards applicable to each regulated process; and
7. An analysis identifying the nature and concentration of pollutants in the discharge.

The Superintendent may require additional information to be included in such application.

Section 6 Within 90 days after the date for final compliance by existing industrial users with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the public sewer, industrial users shall submit to the KSTD a report indicating the nature and concentration of pollutants in the discharge from the regulated process(es) governed by pretreatment standards and the average and maximum daily flow for these process units. Such report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance practices or pre- treatment is necessary. Such industrial users shall submit to the KSTD during the months of June and December, unless required more frequently, a report indicating the nature and concentration of pollutants in the discharge. Additional requirements for such report may be imposed by the Superintendent.

Section 7 Industrial users shall give written notice to the Superintendent and the KSTD at least 45 calendar days before making significant changes in the nature, quantity, or rate of discharge of industrial waste.

Section 8 Industrial users shall immediately notify the Superintendent and the KSTD of any slug loading discharged by such user.

Section 9 All reports submitted by industrial users under this Article shall be signed by an authorized representative. An authorized representative may be:

1. A principal executive officer of at least a level of vice president, if the industrial user is a corporation; or
2. A duly authorized representative of either of the individuals designated above, if such representative is responsible for the overall operation of the subject facility.

Section 10 Industrial users subject to the reporting requirements under this Article shall maintain records of all information resulting from any monitoring activities required to prepare such reports. Such records shall include for each sample:

1. the date, exact place, method, and time of sampling and the names of person or persons taking the sample;
2. the dates analyses were performed;
3. who performed the analyses;
4. the analytical techniques and methods used; and the results of such analyses.

Such records shall be maintained for a minimum of three years and shall be made available for inspection and copying by the Superintendent and the KSTD.

Section 11 Information and data submitted to the Superintendent and the KSTD under this Article relating to waste water discharge characteristics shall be available to the public without restriction. Other such information shall be available to the public at least to the extent provided by 40 CFR Section 2.302.

Section 12 The Superintendent may temporarily exclude from the public sewer industrial wastes from one or more industrial users, whether pretreated or not, if necessary or helpful in determining the effects of such wastes upon the public sewer or KSTD facilities.

ARTICLE X PROTECTION FROM DAMAGE

Section 1 No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

Section 2 A contractor must present a certificate of insurance showing minimum liability coverage of \$100,000/\$300,000 for bodily injury and a \$25,000 limit for property damage including collapse and underground coverage before a permit will be issued for construction of building sewers or sewer extensions. Sewer extensions may require higher coverage if so recommended by the Engineer.

Article XI INSPECTION

Section 1 The Superintendent, the Engineer, or other duly authorized employees of the Town bearing proper credentials and identifications shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this ordinance.

Section 2 The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

ARTICLE XII BOARD OF SEWER APPEALS

Section 1 Creation and Appointment. The establishment of a Board of Sewer Appeals is hereby authorized. The members of the Board shall be residents of the Town and shall serve at the discretion of the Town Council. In accordance with the laws of the State of Maine, the following provisions shall apply:

- (a) The Board shall consist of three members, including the two appointed representatives to the KSTD and the Chairperson of the Planning Board.
- (b) No municipal officer shall be a member or associate member of the Board of Sewer Appeals.
- (c) When a member is unable to act because of conflict of interest, physical incapacity or planned absence, the Vice-Chairperson of the Planning Board shall assume the seat of that member.
- (d) The Board of Sewer Appeals shall elect a chairperson and a secretary from its own membership at the first meeting of each calendar year.

Section 2 Jurisdiction. The Board of Sewer Appeals shall have the following powers and duties and be exercised only upon written appeal by a party aggrieved by a decision of the Superintendent, the Town Health Officer and/or the Plumbing Inspector insofar as such decision arises from requirements of this ordinance.

- (a) To determine whether the decisions of the said officers are in conformity with the provisions of this ordinance, and to interpret the meaning of this ordinance in cases of uncertainty.
- (b) To grant variances from the terms of the ordinance where there is no substantial departure from the intent of the ordinance and/or where necessary to avoid undue hardship. A projected expenditure of an amount exceeding 15% of the assessed value of the buildings on the land to be served by the public sewer shall be considered as prima facie evidence of undue hardship.
- (c) To permit an exception to this ordinance only when the terms of the exception have been specifically set forth by this ordinance.

Section 3 Hearings. The Board of Sewer Appeals shall annually determine a regular monthly meeting date. All appeals or other matters to come before the Board requiring a notice as prescribed herein shall be filed with the Town Clerk at least fifteen days prior to said monthly meeting day who shall cause to be advertised in a newspaper of general circulation in the Town of Fairfield a notice of such appeal identifying the property involved, the nature of the appeal and stating the time and place of a public hearing of such appeal which shall not be earlier than ten (10) days after the date of such publications. Owners of properties within three hundred feet of the property for

which the appeal is made shall be notified by mail. Failure of any such owner to receive this notice shall not invalidate the proceedings herein prescribed.

The Board of Sewer Appeals shall not continue hearings on an appeal to a future date except for good cause. Written notice of the decision of the Board shall be sent to the appellant and to the officer concerned, forthwith. Failure of the Board to issue such notice within 30 day-s of the date of the hearing shall constitute a denial of said appeal.

Section 4 Appeal Procedure.

(a) Any person and any municipal department aggrieved by the decision of the Superintendent, the Town Health Officer and/or the Plumbing Inspector, which decision arises from provisions of this ordinance, may appeal such decision to the Board of Sewer Appeals.

(b) Within 30 days of the date of the decisions of the Superintendent, Health Officer and/or Plumbing Inspector, the appeal shall be entered at the office of the Clerk upon forms to be approved by the Board of Appeals. The appellant shall set forth in said form the grounds of his appeal and shall refer to the specific provisions of the Sewerage Ordinance involved. Following the receipt of any appeal, the Town Clerk shall notify forthwith the officer concerned and the Chairman of the Board of Appeals. The appellant shall pay to the Town Treasurer a fee of twenty-five (\$25.00) dollars.

(c) An aggrieved party may appeal from the decision of the Board of Sewer Appeals to the Superior Court as provided by the laws of the State of Maine.

Section 5 Successive Appeals. After a decision has been made by the Board of Sewer Appeals, a new appeal of similar import shall not be entertained by the Board until one year shall have elapsed from the date of said decision, except that the Board may entertain a new appeal if the Chairman believes that, owing to a mistake of law or misunderstanding of fact, an injustice was done, or if he believes that a change has taken place in some essential aspect of the appeal.

ARTICLE XIII SEWER SERVICE CHARGES

Section 1 The source of not less than 50% of the revenues needed for retiring debt services, capital expenditures, operation and maintenance of the public sewerage works shall be Sewer Service Charges.

Section 2 Sewer Service Charge rates including readiness to serve charges shall be determined by the Town Council. This charge will be billed on a quarterly basis throughout each calendar year, regardless of water consumption.

Section 3 The Town Council reserves the right, from time to time, to change Sewer Service Charges originally or previously assigned to any property owner.

Section 4 All sewer charges shall be collected by the Treasurer of the Town on a quarterly basis and shall be due and payable 30 days after date of billing.

Section 5 There shall be a lien on real estate served or benefited by a municipal sewer and sewer disposal system to secure the payment of service charges duly established hereunder which shall take precedence over all other claims on such real estate excepting only claims for taxes. The Treasurer of the municipality shall have the same authority and power to collect such service charges as are granted by Title 38, Section 1208, to treasurers of sanitary sewer districts. In addition to the lien established hereby, the town may maintain a civil action against the party so charged for the amount of said sewer charge in any court competent to try the same, and in such action may recover the amount of such charge with legal interest on the same from the date of said charge and costs.

Section 6 An interest charge at the same rate as established by the Town Council for uncollected taxes will be made on all bills not paid within 31 days after date of billing.

Section 7 A special Sewer Service Charge shall be established for any industrial firm or organization who, by virtue of the volume, strength or unusual characteristic of their waste alone, would overload or upset the capacity or efficiency of the sewerage works or any part thereof if such waste entered the public sewer, or whose waste disposal situation is such that it would be in the public interest to waive the basic requirements. The Town Council, after appropriate study, and advice from the Engineer, shall establish a Special Sewer Service Charge to the industrial firm by separate agreement with said firm. The applicable portions of the preceding sections, as well as the equitable rights of the public shall be the basis for such an arrangement.

Section 8 In the event that a rate payer will be using a substantial amount of water that **will not** be entering the sewer system, an external flow meter may be rented from the Town, under certain terms and conditions, so that a credit towards consumption amounts may be calculated. *Example: pool fill-up.*

ARTICLE XIV PENALTY

Section 1 Any person found to be violating any provision of this ordinance except Section 1, Article IX shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Section 2 Any person, individual, firm, corporation, or partnership who fails to comply with the provisions of this ordinance other than those provisions pertaining to the

payment of charges for services established herein, shall be guilty of disorderly conduct and shall be subject to fine not exceeding \$100 dollars for each offense. The continued violation of any provision of any section of this ordinance, other than those pertaining to the payment of charges for services established herein, shall constitute a separate offense for each and every day such violation of any provision hereof shall continue.

Section 3 The proper authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings including an injunction to prevent such unlawful use, construction or maintenance of cesspools, septic tanks, sewage disposal systems, pipes or drains to restrain, correct or abate such violation to prevent the occupancy of any building structure or land where said violations of this ordinance are found.

Section 4 Any person violating any of the provisions of this ordinance shall become liable to the Town for any expense, loss, or damage occasioned the Town by reason of such violation.

ARTICLE XV VALIDITY

Section 1 All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 2 The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance which can be given effect without such invalid part or parts.

Adopted by the Town Council on June 15, 2011
Amended on July 12, 2017

ATTEST, A True Copy:

Christine Keller, Town Clerk

TOWN OF FAIRFIELD SHORLAND ZONING ORDINANCES

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Town of Fairfield Shoreland Zoning Ordinance

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 freshwater and coastal 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.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the Kennebec River and the Kennebec Water District Reservoir, and Martin Stream and Lost Brook; within 250 feet horizontal distance, of the upland edge of a freshwater wetland and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream. 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 water body or within a wetland.
4. **Effective Date**

A. Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the municipal legislative body on May 8, 2013, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. Upon approval of this Ordinance, the shoreland zoning ordinance previously adopted on June 30, 1992, and amended on February 13, 2013, is hereby repealed.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

B. Sections 15(O) and 15(O-1).

Repeal of Section 15(O) Municipal Timber Harvesting Regulation. The Municipal Regulation of Timber Harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time Section 15(O-1) the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A. section 438-B(5), the following provisions of this ordinance are repealed:

Section 14- Table of Land Uses #3 Forest Management activities, #4 Timber Harvesting and #27 Land Management Roads.

Section 15- Land Use Standard 15(O) Timber Harvesting

Section 17- Definitions, the definitions of "cross-sectional area, disruption of shoreline integrity, forest management activities, forest stand, harvest area, land management road, licensed forester, residual basal area, residual stand, skid road or skid trail, slash, timber harvesting, timber harvesting and related activities, and wind firm".

(Legislative Updates LD 1739- Statewide regulation of timber harvesting in the shoreland zone effective January 1, 2013)

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.
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.
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 administered by the municipality, the more restrictive provision shall control.
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 (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
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) General Development
 - (4) Stream Protection
 - B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
 - C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.
 - 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.

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.

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.

12. Non-conformance

A. Purpose. It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

(1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

(2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structures

ALTERNATIVE TO 30% EXPANSION RULE PURSUANT TO 38 M.R.S.A. SECTION 439-A SUBSECTION 4-A

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

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

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

- ii. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.
- iii. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.
- iv. For structures located less than 100 feet, horizontal distance, from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total floor area for all portions of those structures within that 100-foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of a great pond is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of Section 12(C)(1)(a), a basement is not counted toward floor area.

- (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.
- (2) **Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated

structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

- (3) **Reconstruction or Replacement.** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming 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 Section 12(C)(2) above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

- (4) **Change of Use of a Non-conforming Structure.** The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, 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 other functionally water-dependent uses.

D. Non-conforming Uses

- (1) **Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.
- (2) **Resumption Prohibited.** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) **Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

E. Non-conforming Lots

- (1) **Non-conforming Lots:** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot 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 or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced

law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

- (3) **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance 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 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

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 the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Residential District or General Development Districts need not be included within the Resource Protection District.

- (1) Areas within 250 feet, horizontal distance, of the upland edge of 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&WW) that are depicted on a Geographic Information System (GIS) data layer maintained by MDIF&W as of December 21, 2008. For the purposes of this paragraph "wetlands associated with great ponds and rivers shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or rivers during the period of normal water. Wetland 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 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 or more contiguous acres with sustained slopes of 20% or greater.

Town of Fairfield Shoreland Zone Ordinance 2013

- (4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- (5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.
- (6) Also included are the following other areas which have been identified for protection:
 - A. Other important wildlife habitat;
 - B. Natural sites of significant scenic or aesthetic value;
 - C. Areas designated by federal, state or municipal government as natural areas of significance to be protected from development; and
 - D. Other significant areas which should be included in this district to fulfill the purposes of this Ordinance, such as, but not limited to, land surrounding public water supplies, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the municipality after consultation with the Maine Historic Preservation Commission.

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 General Development District.

C. General Development District. The General Development District includes the following types of existing, intensively developed areas:

- (1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive residential, recreational activities, or a mix of such activities, including but not limited to the following:
 - (a) Transportation rights of way;
 - (b) Communication and utility rights of way;
 - (c) Areas used for the extraction or processing of mineral resources;
 - (d) Areas devoted to manufacturing, fabricating or other industrial activities;
 - (e) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
 - (f) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.
- (2) Areas otherwise discernible 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 the Kennebec River, Martin Stream from Lost Brook to the confluence with the Kennebec River, and the Kennebec Water District Reservoir, 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 said areas.

D. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of the Kennebec River, the Kennebec Water District Reservoir, Martin Stream and Lost Brook; or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

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

GD - General Development

SP - Stream Protection

The Land Uses Table is on the following page:

TABLE 1. LAND USES IN THE SHORELAND ZONE
LAND USES
DISTRICT

	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>GD</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes
4. Timber harvesting	CEO	CEO ¹	CEO	CEO
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO ²	CEO ¹	CEO ²	CEO ²
6. Fire prevention activities	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes
9. Mineral exploration	no	no	PB	PB
10. Mineral extraction including sand and gravel extraction	no	no	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes
14. Aquaculture	PB	PB	PB	PB
15. Principal structures and uses				
A. One and two family residential, including driveways	PB ⁴	no	PB	PB
B. Multi-unit residential	no	no	PB	PB
C. Commercial	no	no	no	PB
D. Industrial	no	no	no	no
E. Governmental and institutional	no	no	no	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO
16. Structures accessory to allowed uses	PB ⁴	PB	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 ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹
b. Permanent	PB	PB	PB	PB
18. Conversions of seasonal residences to year-round residences	LPI	no	LPI	LPI
19. Home occupations	PB	no	PB	yes
20. Private sewage disposal systems for allowed uses	LPI	no	LPI	LPI
21. Essential services	PB ⁶	PB ⁶	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	PB ¹²	PB ¹²
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	PB	PB
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO
25. Campgrounds	no	no ⁷	PB	PB
26. Road construction	PB	no ⁸	PB	PB
27. Land management roads	yes	PB	yes	yes
28. Parking facilities	no	no ⁷	PB	PB
29. Marinas	PB	no	PB	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO
32. Signs	yes	yes	yes	yes
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB

¹In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

²Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³In RP not allowed in areas so designated because of wildlife value.

⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

⁶See further restrictions in Section 15(L)(2).

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

⁸Except as provided in Section 15(H)(4).

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⁹Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

¹⁰Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹¹Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

¹²Permit 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. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

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

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

A. Minimum Lot Standards

Minimum Lot/Minimum Area (sq. ft.)/Shore Frontage (ft.)

- (1)
 - (a) Residential per dwelling unit
 - (i) Within the Shoreland Zone
Adjacent to Non-Tidal Areas
40,000sf / 200ft
 - (b) Governmental, Institutional, Commercial or Industrial per principal structure
 - (i) Within the Shoreland Zone
Adjacent to Non-tidal Areas
60,000sf / 300ft
 - (c) Public and Private Recreational Facilities
 - (i) Within the Shoreland Zone
40,000sf / 200ft
- (2) Land below the normal high-water line of a water body 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.
- (3) 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.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

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 the Kennebec River, the Kennebec Water District Reservoir, Martin Stream and Lost Brook; and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, 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 the Resource Protection District the setback requirement shall be 250 feet, horizontal distance.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, 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) 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.

NOTE: A municipality may within its ordinance, authorize the Planning Board to increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but are not limited to: areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.

NOTE: A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream are applicable.

- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, 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 basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils.
- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General

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Development District adjacent to Kennebec River, where lot coverage shall not exceed seventy (70) percent.

- (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 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (b) 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;
 - (c) The total height of the wall(s), in the aggregate, are no more than 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 flood plain soils.
 - (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 25 feet, horizontal distance, of the normal high-water line of a water body, 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 ground cover 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 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 Section 15(P)(2)(a), may traverse the buffer;

NOTE: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, or tributary stream, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

- (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 water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body 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 the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial 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 water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (6) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- (7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (8) 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 water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 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 water body 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 the Kennebec River and the area of the Kennebec Water District Reservoir, and Martin Stream and Lost Brook; and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One 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 the Kennebec River and the area of the Kennebec Water District Reservoir, and Martin Stream, and Lost Brook, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (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 (1000) 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. 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:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) 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
- (11) Photographic processing
- (12) Printing

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 be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

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 Kennebec River and the area of the Kennebec Water District Reservoir, and Martin Stream and Lost Brook; and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New permanent roads are not allowed within the shoreland zone along Significant River Segments except:
 - (a) To provide access to structures or facilities within the zone; or
 - (b) When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (4) New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (5) 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 Section 15(Q).
- (6) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

- (7) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (8) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
- (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

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

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) 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.
- (9) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

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 allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (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. Storm Water Runoff

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwater.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

NOTE: The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

K. Septic Waste Disposal

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

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 road-side 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 the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures 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 Section 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 the Kennebec River and the area of the Kennebec Water District Reservoir, and Martin Stream and Lost Brook, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.
- (4) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, 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.

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

- (b) The final graded slope shall be two and one-half to one (2 1/2:1) 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. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (5) 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 of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a the Kennebec River and the area of the Kennebec Water District Reservoir, and Martin Stream and Lost Brook, or within seventy-five (75) feet horizontal distance, of other water bodies, 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 storm water. Existing facilities which do not meet the set-back requirement may remain, but must meet the no discharge provision.
- (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 Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of the Kennebec River, the area of the Kennebec Water District Reservoir, Martin Stream and Lost Brook; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of the Kennebec River, the area of the Kennebec Water District Reservoir, Martin Stream, and Lost Brook within seventy-five (75) feet, horizontal distance, of other water bodies, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

NOTE: 17 M.R.S.A. section 2805(4) requires a municipality to provide the Commissioner of Agriculture, Food and Rural Resources with a copy of any proposed ordinance that impacts farm operations. The law further requires the Commissioner to review the proposed ordinance and advise the municipality if the proposed ordinance would restrict or prohibit the use of best management practices. A copy of a shoreland zoning ordinance that regulates no more restrictively than contained in these Guidelines need not be provided to the Commissioner of Agriculture, Food and Rural Resources.

NOTE RELATING TO TIMBER HARVESTING STANDARDS:

Title 38 MRSA section 438-B of the Mandatory Shoreland Zoning Act addresses timber harvesting and timber harvesting activities in shoreland areas. Section 438-B establishes three options from which each municipality may choose as the State moves toward a set of statewide timber harvesting standards in shoreland areas.

The Town of Fairfield chooses Option #1 and Section 15 (O) is repealed on the statutory date established under 38 M.R.S.A. section 438-A (5), at which time Section 15(0-1) shall become effective.

O. Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
 - (a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
 - (1) The ground is frozen;
 - (2) There is no resultant soil disturbance;
 - (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
 - (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
 - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
 - (b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
- (2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:

- (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of the Kennebec River and the area of the Kennebec Water District Reservoir, Martin Stream and Lost Brook, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (ii) At distances greater than one-hundred (100) feet, horizontal distance, of the Kennebec River, and the area of the Kennebec Water District Reservoir, Martin Stream, and Lost Brook, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
- (b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
- (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. 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 water body or tributary stream shall be removed.
- (d) 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.
- (e) 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.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

- (g) 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 seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

O-1. Timber Harvesting – Statewide Standards

- (1) **Shoreline integrity and sedimentation.** Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
- (2) **Slash treatment.** Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
 - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
 - (b) Adjacent to great ponds, rivers and wetlands:
 - (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
 - (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
 - (a) **Option 1 (40% volume removal),** as follows:
 - (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;

- (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
- (b) **Option 2 (60 square foot basal area retention)**, as follows:
- (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
- (c) **Option 3 (Outcome based)**, which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

- (4) **Skid trails, yards, and equipment operation.** This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

(a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

(b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.

(c) **Setbacks:**

(i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.

(ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(5) **Land Management Roads.** Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(O-1)(7) of this rule.

(a) Land management roads and associated ditches, excavation, and fill must be set back at least:

(i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;

(ii) 50 feet, horizontal distance, from the normal high-water line of streams; and

(iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams

- (b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
- (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (f) **Road closeout and discontinuance.** Maintenance of the water control installations required in Section 15(O-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (g) **Upgrading existing roads.** Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
- (h) **Exception.** Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used

to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (i) **Additional measures.** In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) **Crossings of waterbodies.** Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) **Determination of flow.** Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
 - (b) **Upgrading existing water crossings.** Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).
 - (c) **Other Agency Permits.** Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
 - (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
 - (e) **Notice to Bureau of Forestry.** Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
 - (i) a map showing the location of all proposed permanent crossings;
 - (ii) the GPS location of all proposed permanent crossings;
 - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
 - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

- (f) **Water crossing standards.** All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1)(6)(g)) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

- (i) concentrated water runoff does not enter the stream or tributary stream;
- (ii) sedimentation of surface waters is reasonably avoided;
- (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
- (iv) fish passage is not impeded; and,
- (v) water flow is not unreasonably impeded.

Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- (g) **Bridge and Culvert Sizing.** For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.

- (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

- 1. use of temporary skidder bridges;
- 2. removing culverts prior to the onset of frozen ground conditions;
- 3. using water bars in conjunction with culverts;
- 4. using road dips in conjunction with culverts.

- (iii) Culverts utilized in river, stream and tributary stream crossings must:

- 1. be installed at or below river, stream or tributary stream bed elevation;
- 2. be seated on firm ground;
- 3. have soil compacted at least halfway up the side of the culvert;
- 4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
- 5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

- (iv) River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's

National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

- (v) **Exception.** Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.
- (h) **Skid trail closeout.** Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
 - (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.
 - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
 - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) **Land management road closeout.** Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
 - (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
 - (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
 1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
 2. it shall be designed to provide an opening with a cross-sectional area at least $3 \frac{1}{2}$ times the cross-sectional area of the river, stream or tributary stream channel; or

3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(O-1), but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

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 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 Section 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 the Kennebec River and the area of the Kennebec Water District Reservoir, Martin Stream and Lost Brook, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath 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 Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to the Kennebec River or a river or stream flowing to the Kennebec River, shall be defined as maintaining a rating

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score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

NOTE: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 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 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 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 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall

not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.

- (d) Pruning of tree branches, on the bottom 1/3 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.

Section 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 the Kennebec River and the area of the Kennebec Water District Reservoir, Martin Stream and Lost Brook, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% 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 Section 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) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
 - (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within 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.
 - (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- 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 ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- 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 water body, tributary stream or wetland.
- T. Archaeological Site.** 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.

NOTE: Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.

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. section 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. 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.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is not longer than 75 feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) 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.
- (3) 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 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.

- (3) 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.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

D. Procedure for Administering Permits. Within 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 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 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 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 and coastal 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 statute administered by the municipality.

E. Special Exceptions. In addition to the criteria specified in Section 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 on March 28, 1978, and Martin Stream and Lost Brook Resource Protection District adopted on September 5, 1989.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
 - (a) Located on natural ground slopes of less than 20%; and
 - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, 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 foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

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

- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 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 water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 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 flood-plain, and its proximity to moderate-value and high-value wetlands.

F. Expiration of Permit. Permits shall expire one 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 substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

G. Installation of Public Utility Service. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the 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 or other written arrangements have been made between the municipal officials and the utility.

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, the 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 not 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, percent 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:
 - (i) The proposed structure or use would meet the provisions of Section 15 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:
 - 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) Notwithstanding Section 16(H)(2)(c)(ii) 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.
- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) 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

- (i) 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, except for enforcement-related matters as described in Section 16(H)(1)(a) above. 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.

- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) 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.
- (iv) 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 written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
 - (ii) The person filing the appeal shall have the burden of proof.
 - (iii) 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.
 - (iv) 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-A M.R.S.A. section 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. section 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 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. section 4452.

NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5000 (38 M.R.S.A. section 4452).

17. Definitions

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.

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.

-Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark. (Repeal)

Basement - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% 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.

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

distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel. (Repeal)

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

Development – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

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.

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

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one 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.

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

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

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

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches 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. (Repeal)

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

-Forest Stand - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit. (Repeal)

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 or more contiguous acres; or of less than 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 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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 can not 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 coastal or inland waters.

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

Great pond classified GPA - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

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

-Harvest Area - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest. (Repeal)

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

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

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 water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

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

-Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads. (Repeal)

-Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76. (Repeal)

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

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats 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 (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minimum lot width - the closest distance between the side lot lines of a lot. When only two 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.

Native – indigenous to the local forests.

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

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

Non-conforming structure - a structure which does not meet any one 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.

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

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

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

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

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

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Recent floodplain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

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

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

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

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

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

-Residual basal area - the average of the basal area of trees remaining on a harvested site. (Repeal)

-Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities. (Repeal)

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, excluding a driveway as defined.

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

1. in the case of electric service
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.
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 of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

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

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any river; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a freshwater wetland.

Significant River Segments - See Appendix B or 38 M.R.S.A. section 437.

-Skid Road or Skid Trail - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation. (Repeal)

-Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest. (Repeal)

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

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

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

Subsurface sewage disposal system – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

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

Tidal waters – all waters affected by tidal action during the maximum spring tide.

-Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*. (Repeal)

-Timber harvesting and related activities - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting. (Repeal)

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

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

NOTE: Water setback requirements apply to tributary streams within the shoreland zone.

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

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

Velocity zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

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.

Water body - any great pond, river or stream.

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

Wetland - a freshwater or coastal wetland.

-Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage. (Repeal)

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

Town of Fairfield Shoreland Zone Ordinance 2013

STATUTORY AUTHORITY: 38 M.R.S.A. Section 438-A(5)

EFFECTIVE DATE:

January 13, 1988 (filed as 06-101, Ch. 1)

AMENDED:

March 24, 1990 (filed as 06-096, Ch. 1000)

June 19, 1991 - Sections 15 and 17

July 14, 1992 - Sections 4, 8, 9, 12, 15, 16 & 17

August 7, 1994 - Sections 3, 14 & 16

EFFECTIVE DATE (ELECTRONIC CONVERSION): May 5, 1996

NON-SUBSTANTIVE CORRECTIONS:

December 29, 1997 - minor spelling and formatting.

April 1, 1998 - minor renumbering and formatting.

AMENDED:

February 6, 1999

February 13, 2000

May 1, 2006 – filing 2006-115

November 22, 2010 – filing 2010-581

May 5, 2012 – filing 2012-134

February 13, 2013- DEP Department Order #08-2013

June 12, 2013 – DEP Department Order #08-2013amendment

APPENDIX A

38 §437. Significant river segments identified

For purposes of this chapter, significant river segments include the following:

- 1. Aroostook River.** The Aroostook River from St. Croix Stream in Masardis to the Masardis and T.10, R.6, W.E.L.S. townline, excluding segments in T.9, R.5, W.E.L.S.; including its tributary the Big Machias River from the Aroostook River in Ashland to the Ashland and Garfield Plantation townlines;
- 2. Dennys River.** The Dennys River from the railroad bridge in Dennysville Station to the dam at Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;
- 3. East Machias River.** The East Machias River from 1/4 of a mile above the Route 1 bridge in East Machias to the East Machias and T.18, E.D., B.P.P. townline, and from the T.19, E.D., B.P.P. and Wesley townline to the outlet of Crawford Lake in Crawford, excluding Hadley Lake;
- 4. Fish River.** The Fish River from the bridge in Fort Kent Mills to the outlet of Eagle Lake in Wallagrass, and from the Portage Lake and T.14, R.6, townline to the Portage Lake and T.13, R.7, W.E.L.S. townline, excluding Portage Lake;
- 5. Machias River.** The Machias River from the Whitneyville and Machias townline to the Northfield T.19, M.D., B.P.P. townline;
- 6. Mattawamkeag River.** The Mattawamkeag River from the outlet of Mattakeunk Stream in Winn to the Mattawamkeag and Kingman Township townline, and from the Reed Plantation and Bancroft townline to the East Branch, including its tributaries the West Branch from the Mattawamkeag River to the Haynesville T.3, R.3, W.E.L.S. townline and from its inlet into Upper Mattawamkeag Lake to the Route 2 bridge; the East Branch from the Mattawamkeag River to the Haynesville and Forkstown Township townline and from the T.4, R.3, W.E.L.S. and Oakfield townline to Red Bridge in Oakfield; the Fish Stream from the Route 95 bridge in Island Falls to the Crystal-Patten townline; and the Baskehegan Stream from its inlet into Crooked Brook Flowage in Danforth to the Danforth and Brookton Township townline;
- 7. Narraguagus River.** The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township townline, excluding Beddington Lake;
- 8. East Branch of Penobscot.** The East Branch of the Penobscot from the Route 157 bridge in Medway to the East Millinocket and Grindstone Township townline;
- 9. Pleasant River.** The Pleasant River from the railroad bridge in Columbia Falls to the Columbia and T.18, M.D., B.P.P. townline, and from the T.24, M.D., B.P.P. and Beddington townline to the outlet of Pleasant River Lake;
- 10. Rapid River.** The Rapid River from the Magalloway Plantation and Upton townline to the outlet of Pond in the River;
- 11. West Branch Pleasant River.** The West Branch Pleasant River from the East Branch to the Brownville and Williamsburg Township townline; and
- 12. West Branch of Union River.** The West Branch of the Union River from the Route 9 bridge in Amherst to the outlet of Great Pond in the Town of Great Pond.

Town of Fairfield

SIDEWALK DISPLAY ORDINANCE

SECTION 1 PURPOSE

The purpose of this ordinance is to promote and preserve the aesthetic qualities of the sidewalks of the Town of Fairfield and to promote the safety and convenience of the pedestrians using said sidewalks by regulating the placement of objects within and above the said sidewalks.

SECTION 2 AREA OF APPLICABILITY

This ordinance shall apply to the following areas:

- a. Both the Easterly and Westerly sidewalks abutting Main Street between the Northerly line of the City of Waterville and the Northerly corner of the intersection of Main Street and Western Avenue, including pedestrian gateways between Main Street and Mill Street.
- b. Both the Northerly and Southerly sidewalks abutting Lawrence Avenue and Bridge Street between the Easterly bound of the Maine Central Railroad right of way and the Westerly end of the most Westerly bridge leading to Benton.
- c. The Northerly sidewalk abutting Summit Street between the Easterly bound of the Maine Central Railroad right of way and Main Street.

SECTION 3 EFFECTIVE DATE

This ordinance shall become effective on June 13, 2012, and shall supersede and replace any previously adopted ordinance adopted by the Town of Fairfield regulating the placement of objects within and above the sidewalks to which this Ordinance applies.

SECTION 4 VALIDITY, SEVERABILITY, AND CONFLICT WITH OTHER ORDINANCES

- a. 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 this Ordinance.
- b. In the event that a conflict shall exist between this Ordinance and any other Ordinance of the Town of Fairfield, Statute of the State of Maine, or Rule or Regulation adopted by any Agency of the State of Maine, the more stringent provision(s) shall apply.

SECTION 5 PERMITS REQUIRED

After the effective date of this Ordinance, no person shall place, authorize to be placed, or suffer the placement of any physical object upon the surface area of or within a vertical distance of eight (8) feet above the surface of any of the sidewalks within the area subject to this ordinance without a permit issued under this Ordinance.

SECTION 6 PERMIT APPLICATIONS

Applications for annual permits shall be submitted by the person intending to place an object within or above the affected sidewalks, or by their authorized agent, upon a form to be issued by the Codes Enforcement Officer of the Town of Fairfield or such other person as may be duly designated by the Town Manager of the Town of Fairfield, and which shall include such information as may be required to determine that the applicant shall comply with the requirements of this Ordinance.

SECTION 7 REQUIREMENTS FOR ISSUANCE OF PERMIT

Any applicant for a permit under this Ordinance shall present to the person authorized to issue a permit hereunder the following information:

a. Financial Responsibility: The applicant for the permit shall present to the person authorized to issue permits under this Ordinance, together with an agreement to indemnify and forever hold the Town of Fairfield harmless from any loss or damage, in the event that any person should be harmed in connection with the placement of any object by the applicant within the subject area, proof of general liability insurance in an amount of at least One Million Dollars (\$1,000,000.00) indemnifying the Town of Fairfield from any loss in the event of any such harm.

b. Description of object intended to be placed: The applicant shall disclose to the person authorized to issue a permit under this Ordinance an exact description of each object to be placed within the subject area, except that objects which constitute merchandise for sale may be generally described while an exact description of any tables, racks, counters or other objects displaying such objects shall be given. In no event shall a permit be granted for the placement of any object which shall obstruct one-half (1/2) or more of the surface area of the sidewalk.

c. Duration of placement of merchandise and displays, and prohibitions:

1. The applicant shall disclose the duration of the intended placement of merchandise and displays.
2. Placement may not coincide with municipal parking bans; November 1 to March 31 of the following year, between the hours of 12:00 a.m. and 5:00 a.m.
3. Placement shall not impede municipal sidewalk maintenance.
4. Placement and objects will not be allowed to remain within the affected area beyond the business hours of the applicant on any given day.

d. Duration of placement of amenities for outdoor dining: The applicant shall disclose the duration of the intended placement of amenities, including tables, chairs, umbrellas, etc. which may be placed between the months of May through September. Outside of business operating hours, objects shall be neatly placed against the applicant's building or, if possible, moved onto the applicant's property.

e. The applicant shall be current on all real and personal property taxes owed the Town of Fairfield before a permit can be issued. Permits shall be immediately revoked by the Code Enforcement Officer for failure to pay taxes within 30 days after the date which they are due.

SECTION 8 VIOLATION OF THIS ORDINANCE

Any person who shall violate any of the restrictions of this Ordinance shall be liable to pay a penalty to the Town of Fairfield which shall be assessed at the rate of One Hundred Dollars (\$100.00) per day for each and every day that such violation shall continue.

SECTION 9 APPEAL

Any person who shall deem himself aggrieved by the failure or refusal of the person authorized to issue permits under this Ordinance to issue to him a permit after the filing of a proper application may appeal the decision of such person not to issue the said permit to the Town Council of the Town of Fairfield at any time within ten (10) days of the denial of such permit by notifying the Town Manager of the Town of Fairfield, in writing, of his said appeal.

Public Hearing Date: May 21, 1986

Adopted: May 21, 1986

Amended: June 13, 2012

Amended: September 12, 2018

A True Copy

Attest: _____
Town Clerk

Town Seal

WASTE DISPOSAL ORDINANCE

SECTION 1 PURPOSE

The purpose of this Ordinance is to protect the public health and property values of the citizens of the Town of Fairfield by controlling the disposal of all discarded matter in such a manner as to prevent:

1. The pollution of air, land, or water resources of the Town;
2. Littering and unsightliness around disposal areas;
3. The destruction of private wells;
4. Erosion;
5. The destruction of Town roads by increased and/or heavy traffic.

SECTION 2 PROHIBITION

The operation of a disposal area in the Town of Fairfield for the disposal of any waste, unused materials, or discarded matter by any commercial, manufacturing or industrial organization, governmental or quasi-governmental agency, except any Town-owned disposal area and the application of stabilized treatment plant solids to farm land by the Kennebec Sanitary Treatment District, without a permit from the Town Council is prohibited. This permit is not required by farms for waste generated directly from the raising of livestock, crops, or poultry.

SECTION 3 PERMIT APPLICATION AND PROCEDURES

The prospective operator and the owner of such a site must apply for this permit by writing a letter to the Town Council stating:

1. The weight and volume per day, week and year to be disposed of;
2. There are no toxic or pathogen materials to be disposed of;
3. There will be no open burning and, if the material is combustible, adequate fire control facilities shall be provided.
4. The site and entrance thereto are properly landscaped to screen, to the maximum extent possible, the disposal area from all surrounding property, and that entrance to the site is controlled to prevent accident and public harm if necessary.

5. Any excavation or open soil will be planned in such a manner as to minimize erosion and prevent sediment pollution or siltation of any ground or surface water in the town.

Obtaining this permit in no way relieves the applicant from the requirement to obtain other applicable Federal, State and local permits. The Town Council may issue this permit subject to any conditions necessary to ensure compliance with these criteria and the goals stated in Section 1. If, after investigation, the Town Council determines that the disposal area is not being operated in accordance with the criteria herein or conditions on the permit for the area, then the permit shall be cancelled and rendered null and void.

SECTION 5 EXISTING DISPOSAL SITES

Existing disposal sites covered by the ordinance must obtain a permit within 2 years of adoption of this ordinance by the town.

SECTION 6 CHANGES IN LOCATION, SIZE OR OPERATION

If the operation or location of any disposal area changes from that specified in the original permit application, an amendment to that permit must be obtained by the operator and the owner.

2. The consistency and chemical composition and origins of the material to be disposed of;
3. The location of the proposed disposal area;
4. Existing and planned final contours if excavation and fill are contemplated;
5. Plans to screen and reduce any unsightliness and to control access to the site for protection against accident and public harm;
6. The manner and frequency in which the material will be transported to the site;
7. The results of site surveys, engineering, evaluations and other studies supporting the project.

The Town Council may reduce the amount of information needed in the application for this permit, provided they determine, after a meeting with the applicant, the information requested is not applicable to the particular permit. A public hearing must be held on all applications. The permit shall be granted, granted with conditions, or denied within 60 days of receipt of a properly

completed application, or if additional information is necessary, within 60 days of receipt of the additional information.

SECTION 4 CRITERIA FOR GRANTING THE PERMIT

A permit shall be granted after public hearing provided the Town Council find that;

1. The soils, bedrock formation and ground contours are such that the ground water and surrounding surface waters will not be affected.

A public hearing on an amendment may or may not be held at the discretion of the Town Council.

SECTION 7 PENALTY

Any operator or owner who fails to obtain a permit, misrepresents information in the application, or fails to comply fully with conditions on the permit shall be individually liable to a fine of up to one thousand dollars (\$1,000.00) per day of each day of violation.

SECTION 8 PERMIT FEE AND TERM

Applications shall be accompanied by a non-refundable fee of \$50.00 payable to the Town of Fairfield. In addition, the Town Council may assess reasonable additional costs relating to a specific application. The term of the permit shall be for one year from date of approval by the Town Council.

Permits are subject to termination at the discretion of the Town Council after 60 days upon written notice.

SECTION 9 SEPARABILITY

The invalidity of any provision of this ordinance shall not invalidate any other part.

SECTION 10 COMMENCEMENT

This ordinance shall become effective when enacted.

Public Hearing: December 2, 1980

Effective Date: December 16, 1980

TRUE COPY ATTEST: Agnes G. LaPlante, Town Clerk

SMOKE-FREE PARKS, PLAYGROUNDS, AND RECREATION AREAS

SECTION 1.0 PURPOSE

This Ordinance is enacted to protect, preserve, and promote the health, safety, welfare, and quality of life of the children and adults that use parks, playgrounds, and recreation areas in the Town of Fairfield.

SECTION 2.0 DEFINITIONS

3.0.1 SMOKING: Shall mean inhaling, exhaling, burning, vaporizing or carrying any lighted cigar, cigarette, weed, plant, vaporizer or other combustible substance in any manner or in any form.

3.0.2 TOBACCO: Shall mean any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, among other products, cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco.

3.0.3 MARIJUANA: means the dried leaves and flowers and the by-products of the dried leaves and flowers of the marijuana plant that require no further processing but does not include the seeds, stalks, leaves that are disposed of and not dried for use and roots of the plant.

3.0.4 ELECTRONIC NICOTINE DELIVERY DEVICE: means any noncombustible device containing or delivering nicotine or marijuana tincture or any other substance intended for human consumption that employs a heating element, power source, electronic circuit or other electronic, chemical or mechanical means and that may be used to simulate smoking through inhalation of vapor or aerosol from the device, including, without limitation, a device manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or so-called vape pen. "Electronic nicotine delivery device" does not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

SECTION 3.0 PROHIBITION

Smoking, tobacco, marijuana use and vaping are prohibited at the following town recreation areas and adjacent public parking lots and sidewalks:

- a. Water Street Playground and Fairfield Community Center, exclusive of the Mill Street Parking lot. Which is a DRUG FREE ZONE.

- b. Fairfield Athletic Complex on Industrial Road and Western Avenue, including the sports fields and adjacent land and parking area. Which is a DRUG FREE ZONE.
- c. Mill Island Park and the adjacent parking area. Which is a DRUG FREE ZONE.
- d. Monument Park and its adjacent sidewalks, including High Street between the Park and the Fairfield Primary School. Which is a DRUG FREE ZONE.

SECTION 4.0 ENFORCEMENT

This Ordinance shall be enforced by the Fairfield Police Department.

SECTION 5.0 PENALTIES

Prior to issuing a citation for violation of this Ordinance, a law enforcement officer shall issue one verbal warning to an individual. If the individual fails to comply after the warning, the individual shall be issued a citation to appear in court. If the individual is found to be in violation of this Ordinance, the Court shall impose a fine of \$50.00, which may not be suspended. The municipality may be awarded attorney's fees and costs incurred in enforcing this Ordinance.

SECTION 6.0 SEVERABILITY

If any Ordinance in the Town of Fairfield now in effect or any future Ordinance is more stringent than this one, then that Ordinance shall be in force. If for any reason any word, clause, paragraph or section of this Ordinance shall be held unconstitutional, this Ordinance shall not thereby be invalidated and the remainder of this Ordinance shall continue in effect.

SECTION 7.0 EFFECTIVE DATE

This Ordinance shall become effective upon adoption by the Town Council of Fairfield.

SECTION 8.0 AMENDMENTS

This Ordinance may be amended by vote of the Town Council.

Adopted on this 9th day of October, 2002.
Amended on the 13th day of August, 2014.
Amended on the 26th day of April, 2017.

ATTEST, A True Copy:

Christine Keller, Town Clerk

SOLID WASTE ORDINANCE

Be it enacted by the Town Council of the Town of Fairfield as follows:

Whereas: the Town of Fairfield with the legal authority to control the handling of solid waste generated within its borders; to promote the public health, safety and welfare; to gain management control over solid waste and thereby to enable reclamation of resources; and

Whereas: to provide for the requirement that all residential, commercial, and institutional solid waste generated within the borders of the Town be delivered to a designated disposal facility; and

Whereas: to provide the Town with the authority to enforce this requirement; and

Whereas: to enable the Town to be in compliance with the contract between the Town of Fairfield and the Penobscot Energy Recovery Company (PERC) entered into on the 29th day of March 1991; now, therefore

Be it ordained that the following Solid Waste Ordinance be incorporated into the code of the Town of Fairfield:

SECTION 1 COMPLIANCE REQUIRED

No person, corporation or legal entity shall dispose of solid waste in any manner which is contrary to the provisions herein and all acceptable solid waste generated within the Town of Fairfield shall be disposed of only at the PERC disposal facility pursuant to the Town's March 29, 1991, contract with PERC (a copy of which is located at the Town Office).

SECTION 2 DEFINITIONS

The following definitions shall apply in the interpretation and enforcement of this chapter. The definitions set forth in 38 M.R.S.A. Section 1303 also shall apply. Any word not otherwise defined shall have its ordinary meaning.

2.1 Acceptable Solid Waste. "Acceptable solid waste" shall mean waste which PERC, by means of its contract with the Town (a copy of which is located at the Fairfield Town Clerk's Office), dated March 29, 1991, will accept at its disposal facility and includes all ordinary household, municipal, institutional, and commercial waste which consists primarily of combustible materials.

2.2 Solid Waste Hauler. "Solid waste hauler" means anyone collecting and transporting acceptable solid waste from residential customers, commercial establishments, and institutional facilities within Town borders.

2.3 Solid Waste. The term "solid waste" shall have the same definition as set forth in Title 38 M.R.S.A., section 1303, as the same may be amended from time to time.

2.4 Town. The term "town" herein shall mean the Town of Fairfield, Maine, and its applicable officers, officials, representatives, employees, agents, designees, as well as the Town Manager and Town Council and his or her or their designees.

2.5 Unacceptable Solid Waste. "Unacceptable solid waste" means all solid waste that is not acceptable solid waste.

SECTION 3 LICENSING

3.1 All solid waste haulers must obtain an annual license from the office of the Town Manager, or his/her designee, of the Town of Fairfield. The license for the first year, notwithstanding when that license is obtained, shall expire on February 29, 1996, and on the last day of February of each year thereafter.

3.2 All solid waste haulers operating in the Town must submit an annual reporting form by January 31 of each year. Such form indicates the amount (in pounds) of acceptable solid waste and recyclables collected by the reporting solid waste hauler in the Town during the previous year. Once a reporting form has been received by the office of the Town Manager, a licensing application form will be sent to the reporting solid waste hauler. No license will be issued to an applicant that operated in the Town during the year previous to application and does not submit an annual reporting form.

3.3 In the event that a licensed solid waste hauler terminates operation within Town boundaries, such solid waste hauler shall submit at the time of termination an annual report for all acceptable solid waste delivered during the year that operation ceased.

3.4 The Town Manager shall prepare an application form which will include regulations governing the collection and disposal of solid waste at a Town-designated transfer facility or PERC as well as other information that the Town requires. Such application and regulations shall be approved by the Town Council prior to its use.

3.5 Each applicant must conform to the following standards:

- a. Each application must be accompanied by a current certificate of insurance.
- b. Each application must be accompanied by a list of current license plate numbers of all trucks owned by the applicant which are to be used to haul acceptable solid waste to a Town-designated transfer facility or PERC. The list shall be kept up to date during any year in which a license has been granted and any changes must be reported immediately to the Town Manager's office.
- c. Any applicant required to have a permit under the rules of the Department of Environmental Protection, Chapter 411, shall submit such permit with the Town's application form.
- d. The Town reserves the right to inspect all vehicles to determine if they are in good, operating condition and to determine whether they are so constructed as to enclose loads within the container or to provide for a secured covering of any load. (Failure to meet the conditions of this paragraph at all times will result in no license being issued to the applicant and possible loss of such solid waste hauler license hereunder until such unsatisfactory conditions are remedied to the Town's satisfaction.)
- e. All applicants' vehicles must be capable of unloading their loads at a Town-designated transfer facility or PERC only by mechanical means.

3.6 Once a complete licensing application is received and approved by the Town Manager, the applicant will be given a new annual report form. Such applicant also will be issued a license and a certified decal for each truck owned by the applicant which is used to haul acceptable solid waste. A current license shall be indicated by an appropriate decal which decal shall be displayed in a prominent position on the vehicle.

3.7 All licenses are non-transferable.

SECTION 4 FEES

The Town Council may establish from time to time an annual fee for the licensing of solid waste haulers, which fee shall include a basic fee and an additional fee for each vehicle to be licensed.

SECTION 5 TONNAGE REPORTING

It shall be the responsibility of the solid waste hauler to ensure that the Town of Fairfield is given accurate or reasonably estimated tonnage for all acceptable solid waste collected from within the borders of the Town and delivered to a

Town- designated transfer facility or PERC by said solid waste hauler. Reporting of these weights shall be submitted with the annual reporting form on January 31 of each year.

SECTION 6 RESPONSIBILITIES OF THE HAULER

6.1 A solid waste hauler shall be held fully responsible for the presence of unacceptable solid waste in any load delivered by the solid waste hauler to a Town- designated transfer facility or PERC. In the event that the solid waste hauler disposes of any unacceptable solid waste at such facilities, such unacceptable solid waste shall be removed from the facility by the solid waste hauler at the hauler's expense within a 24 hour period following oral notification by the Town. If the unacceptable solid waste is not removed by said solid waste hauler within the 24 hour notification period, it will be removed by the Town or its agents, with double the cost of removal and disposal to be billed to the solid waste hauler and paid by any such solid waste hauler within thirty (30) days. Failure or refusal by such solid waste hauler to pay such bill from the Town may result in loss of such solid waste hauler license hereunder through the process described in Section 7 until all outstanding amounts due under this ordinance are paid.

6.2 The solid waste hauler shall be fully responsible for the handling of waste between its sources from within the borders of the Town and a Town-designated transfer facility or PERC. The solid waste hauler's license does not make the hauler an agent, employee or contractor of the Town. The solid waste hauler is fully and solely responsible for his/her own negligent and intentional acts or omissions, and all workers' compensation costs, insurance costs, and other costs and obligations associated with hauling solid waste.

SECTION 7 PENALTIES AND LICENSE REVOCATION

7.1 In the event that a solid waste hauler shall have violated the provisions of this chapter for five (5) days or more, or on ten (10) or more separate occasions, the Town Manager shall have the right to begin the process of revocation of the existing license herein described in Section 7.2, and permanently refuse to grant a license to such solid waste hauler in the future.

7.2 Upon notice by the Town Manager to the solid waste hauler of a proposed temporary or permanent suspension of its solid waste hauler's license, a public notice of said proposed suspension will be issued and will be posted in the normal posting places within the Town and a copy shall be sent to the solid waste collection sources of said solid waste hauler. Upon issuance of a notice of a proposed temporary or permanent suspension, the solid waste hauler will be entitled to a hearing before a select committee of the Town Council. If the select

committee upholds the decision of the Town Manager, then a suspension of the solid waste hauler's license may be enacted and/or a fine may be levied.

7.3 Any solid waste hauler who is responsible for a violation of this Ordinance is liable for the penalties in Title 30-A, MRSA, Section 4452. Said hauler shall pay the Town's court costs and reasonable attorney's fees in the event that the Town takes court action to enforce this Ordinance.

7.4 The Town Manager may enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and imposing fines without court action. Such agreements should not allow an illegal activity to continue unless there is clear and convincing evidence that the illegality was a direct result of erroneous information or advice given by an authorized Town official, and there is no evidence that the violator acted in bad faith.

SECTION 8 SEVERABILITY AND CONFLICT

8.1 In the event that any provision of this ordinance is found to be void and unenforceable by a court, the remaining provisions continue in full force and effect.

8.2 If this Ordinance conflicts with other Town ordinances, then the strictest provisions shall apply.

8.3 Provisions of Federal and State laws and rules adopted pursuant thereto shall govern if such provisions are more stringent than the provisions of this Ordinance.

Public Hearing: July 18, 1995

Adopted: July 18, 1995

Effective: July 18, 1995

SPECIAL AMUSEMENT ORDINANCE

ARTICLE I TITLE, PURPOSE & DEFINITIONS

SECTION 101 TITLE

This Ordinance shall be known and may be cited as the Special Amusement Ordinance of the Town of Fairfield, Maine.

SECTION 102 PURPOSE

The purpose of this Ordinance 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 28 MRSA Sub-Section 702.

SECTION 103 DEFINITIONS

103.1 Entertainment. For the purposes of this Ordinance, "entertainment" shall include any amusement, performance, exhibition or diversion for patrons or customers of the licensed premises whether provided by professional entertainers or by full-time or part-time employees of the licensed premises whose incidental duties include activities with an entertainment value.

103.2 Licensee. For purposes of this Section, "licensee" shall include 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.

ARTICLE II GENERAL

SECTION 201 PERMIT REQUIRED

No licensee for the sale of liquor to be consumed on his licensed premises shall permit, on his licensed premises, any music, except radio or other mechanical device, any dancing or entertainment of any sort unless the licensee shall have first obtained from the municipality in which the licensed premises are situated a special amusement permit signed by at least a majority of the municipal officers.

Applications for all special amusement permits shall be made in writing to the municipal officers and shall state the name of the applicant; his residence address; the name of the business to be conducted; his business address; the nature of his business; the location to be used; whether the applicant has ever had a license to conduct the business therein described either denied or revoked and, if so, the applicant shall describe those circumstances specifically; whether

the applicant, including all partners or corporate officers, has ever been convicted of a felony and, if so, the applicant shall describe specifically those circumstances; and any additional information as may be needed by the municipal officers in the issuing of the permit, including but not limited to a copy of the applicant's current liquor license.

No permit shall be issued for any thing, 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 municipality.

The fee for a special amusement permit shall be \$35.00.

The municipal officers shall, prior to granting a permit and after reasonable notice to the municipality and the applicant, hold a public hearing within 15 days of the date of the request was received, at which the testimony of the applicant and that of any interested members of the public shall be taken.

The municipal officers shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles, or bylaws.

A permit shall be valid only for the license year of the applicant's existing liquor license.

SECTION 202 CONDUCT CONSTITUTING OFFENSES BY LICENSEES

202.1 Tumultuous conduct. The licensee shall not knowingly allow on any licensed premises any person or persons to disturb, tend to disturb, or aid in disturbing the peace of others of ordinary sensibilities or to be disorderly, riotous or reveling by violent, tumultuous, offensive or obstreperous conduct; or to permit or gather a crowd, or audience, or patrons to witness any entertainment, amusement, or show as to create a dangerous condition because of fire or other risks in derogation of the public health, comfort, convenience, safety, or welfare.

202.2 Riots. The licensee shall not allow on any licensed premise any public entertainments or amusement or show of any kind which tends to or is calculated to cause or promote any riot or disturbance.

202.3 Unnecessary noise. The licensee shall not allow on any licensed premises the making, creation, or maintenance of excessive, or unnecessary, or unnatural, or unusually loud noises which disturbs, annoys, injures or prejudices, or endangers the comfort, repose, health, peace, or safety of individuals of ordinary sensibilities or the public in general, or the property rights of others.

202.4 Nuisances. The licensee shall not allow any licensed premises to be so conducted or operated as to amount to a nuisance in fact under any ordinances,

or any sections of any ordinances, articles, bylaws, or rules and regulations of the municipality, or under any statutes of the State of Maine.

202.5 Prostitution and Public Indecency. The licensee shall not allow on any licensed premises or aid in or offer or agree to or allow in or near such licensed premises any prostitution, or prostitutes, or any public indecency under any or in derogation of any statutes of the State of Maine; or, to persons of ordinary sensibilities, any meretricious display, or lewd act, or act of moral perversion, or knowingly receive, or offer or agree to receive any person on such licensed premises for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or public indecency, or to knowingly permit any person to remain on such licensed premises for any such purpose, or to aid, abet, allow, permit, or participate in the commission of any such acts.

202.6 Solicitation of Drinks. The licensee shall not allow on any licensed premises any person to frequent or loiter with the purpose of soliciting any other person, customer, or patron to purchase any drink of any kind.

202.7 Gambling. The licensee shall not allow on any licensed premises the use or occupancy thereof for gambling or games of chance as prohibited by the statutes of the State of Maine or ordinances, articles, bylaws or rules and regulations of the municipality; nor shall any licensee have or keep for gambling purposes on or about such licensed premises any dice, cards, bowls, quoits or other implements used in gambling, or allow any person resorting thereto to use or exercise for gambling purposes any of said games or any other unlawful game or sport therein.

202.8 Obscenity. The licensee, on any licensed premises, shall not:

1. Knowingly disseminate, distribute or make available to the public any obscene material; or
2. Knowingly make available to the public any obscene performance; or
3. Knowingly engage in commerce and/or for commercial gain with materials depicting and describing explicit sexual conduct, nudity, or excretion utilizing displays, circulars, advertisements, or any other public sales efforts that promote such commerce primarily on the basis of their prurient appeal; or
4. Provide service to patrons in such a manner as to expose to public view:
 - a. The licensee's or any of his agents' or employees' genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;

b. Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

c. Any portion of the female breast at or below the areola thereof; or

5. Knowingly promotes the commission of any of the above-listed acts of this Ordinance section.

6. For the purposes of this Section and any other Section of this Ordinance, unless specified otherwise, the following terms are defined as follows:

a. "obscene" means that to the average person applying contemporary community standards the predominant appeal of the matter or act taken as a whole, is to prurient interest, and the matter or act depicts or describes in a patently offensive manner sexual conduct or lewd exhibition of the genitals or other body parts mentioned in this Ordinance above, and the matter or act or performance considered as a whole lacks serious literary, artistic, political, or scientific value; or any matter or acts or performance which are prohibited by the statutes of the State of Maine.

b. "material" means any book, magazine, newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any statue or other figure, or any recording, transcription or mechanical, chemical, or electrical reproduction or any other articles, equipment, or machines.

c. "disseminate" means to transfer possession of, with or without consideration.

d. "knowingly" means being aware of the character and the content of the material.

e. "performance" means any preview, play, show, skit, film, dance, or other exhibition, or entertainment performed before an audience.

f. "available to the public" means that the matter or performance or act may be purchased or attended on a subscription basis, or membership fee arrangement, or for a separate fee for each item

or performance or act, or available merely by being a patron of or present in an establishment that is licensed to sell liquor.

g. "service to patrons" means the provision of services to customers, patrons, or any other persons present in establishments providing food and beverages, including but not limited to hostessing, hat checking, cooking, bartending, serving, table setting and clearing, waiter and waitressing and entertaining.

h. "expose to public view" means that view, glimpse, sight or reconnoiter by the use of one's ordinary visual means, which is revealed, open to plain view, exposed, discovered, distinguished, recognized, observed, demonstrated, exhibited, perceived, discerned, displayed, or capable of any or all of such, from any vantage point where the public or any patron of any licensee is allowed, authorized, invited, or normally and commonly frequents.

SECTION 203 INSPECTIONS

Whenever inspections of the premises used for or in connection with the operation of a licensed business which has obtained a special amusement permit are provided for or required by ordinance or State law, or are reasonably necessary to secure compliance with any ordinance provision or State law, it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the municipality authorized to make the inspection at any reasonable time that admission is requested.

Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or State law, it shall be the duty of the licensee, or the person in charge of the premises, to give to any authorized officer, official, or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.

In addition to any other penalty which may be provided, the municipal officers may revoke the special amusement permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection or take sufficient samples for analysis, or who interferes with such officer, official, or employee while in the performance of his duty. Provided, that no license or special amusement permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.

SECTION 204 SUSPENSION OR REVOCATION OF A PERMIT

The municipal officers may, after a public hearing preceded by notice to interested parties, suspend, or revoke any special amusement permits which have been issued under this ordinance on the grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, or welfare, or violates any municipal ordinances, articles, bylaws, or rules and regulations.

SECTION 205 RULES AND REGULATIONS

The municipal officers are hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of special amusement permits, the classes of permits, the music, dancing, or entertainment permitted under each class, and other limitations on these activities required to protect the public health, safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted. Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.

SECTION 206 PERMIT AND APPEAL PROCEDURES

206.1 Any licensee requesting a special amusement permit from the municipal officers shall be notified in writing of their decision no later than fifteen (15) days from the date his request was received. In the event that a licensee is denied a permit, the licensee shall be provided with the reasons for the denial in writing. The licensee may not reapply for a permit within 30 days after an application for a permit which has been denied.

206.2 Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may, within 30 days of the denial, suspension or revocation, appeal the decision to the municipal board of appeals as defined in 30 NRSA Sub—Section 2411. The municipal board of appeals may grant or reinstate the permit if it finds that the permitted activities would not constitute a detriment to the public health, safety, or welfare, or that the denial, revocation or suspension was arbitrary or capricious, or that the denial, revocation, or suspension was not based by a preponderance of the evidence on a violation of any ordinance, article, bylaw, or rule or regulation of the Municipality.

SECTION 207 ADMISSION

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 municipal special amusement permit.

ARTICLE III PENALTY, SEPARABILITY & EFFECTIVE DATE

SECTION 301 PENALTY

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than Fifty Dollars (\$50) for the first offense, and up to Twenty-five Dollars (\$25) for the subsequent offenses, to be recovered, on complaint, to the use of the Town of Fairfield.

SECTION 302 SEPARABILITY

The invalidity of any provision of this Ordinance shall not invalidate any other part.

SECTION 303 EFFECTIVE DATE

This ordinance shall become effective when enacted.

Public Hearing: May 20, 1981

Effective Date: May 20, 1981

Town Council

**TOWN OF FAIRFIELD
STREET NUMBERING ORDINANCE**

SECTION 1 PURPOSE

The purpose of this ordinance is to enhance the easy and rapid location of properties by law enforcement, fire, rescue and emergency medical personnel in the Town of Fairfield.

SECTION 2 AREA OF APPLICABILITY

This ordinance shall apply to any building or vacant lot in the Town of Fairfield as recorded on the local tax maps.

SECTION 3 AUTHORIZATION OF STREET NUMBERING

This ordinance shall be administered by the Fire Chief or his/her delegate who is authorized to and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Sections 4 and 5.

SECTION 4 METHOD OF STREET NUMBERING

- (A) All properties listed on the Town's Tax Maps on the North or East side of a street or road will be assigned an EVEN number.
- (B) All properties listed on the Town's Tax Maps on the South or West side of a street or road will be assigned an ODD number.
- (C) All corner lots will be assigned a number for each street or road that it borders, which will allow for a building or vacant lot to be numbered according to the front property line. The walk or access drive to the building will be considered the front.
- (D) On all streets and roads running South to North the Lowest numbers will start at the most southerly point on the Town Tax Maps. EXAMPLE: Properties along Main Street shall be numbered with the lowest address numbers beginning at the Fairfield-Waterville municipal border and continuing in sequence travelling northbound toward Skowhegan.
- (E) On all streets and roads running East to West the lowest number will start at the most Easterly point and continue Westerly.

NOTE: An exception to the above numbering system is authorized for the purpose of sequencing that will conform to existing City of Waterville numbering system on roads that connect Fairfield and Waterville, such as the Ridge Road and Norridgewock Road.

- (F) Names of new streets or roads shall not be duplicated or bear phonetic resemblance to the names of existing streets or roads within the Town of Fairfield.

SECTION 4-A METHOD OF NUMBERING MULTI-TENANT AND MULTI STORY BUILDINGS

- (A) Single story buildings with a single shared main entrance with separate occupancies shall be numbered as follows: One main address number shall be placed at the main entrance or sign if in place, then each individual occupancy shall be marked as units within the building with the lowest number being 1 and continuing 2, 3, 4, or A, B, C, etc. according to section 4(D) and (E). Example: A building at 357 Main Street with four units should be marked as 357 Main Street, then starting from the most southern unit 1, 2, 3, 4 or A, B, C, D, northward. (Or east to west depending on how the building is orientated.) Each unit shall be marked at its entrance. For commercial buildings a marquee should be placed at the main entrance with the names and numbers of the individual occupants.
- (B) For single story buildings with individual entrances for each occupancy the building shall have one main address placed in a conspicuous place on the front of the building or sign if in place and each individual occupancy shall be numbered as units with the lowest number being 1 and continuing 2, 3, 4, or A, B, C, D, etc. in accordance with Section 4(D) and (E).
- (C) For multi-story commercial buildings or apartment buildings with more than 4 units with a shared entrance, one main address number shall be placed at the main entrance or sign if in place. Each occupancy shall be numbered with numbers and letters with the letter designating the level. Example: First floor occupancies shall be marked as: 1A, 1B, 1C and so forth. The second floor occupancies shall be marked 2A, 2B, 2C and so on, for each level or the lowest number may be 100 and continue on 101, 102, for the first floor, and the second floor 200, 201, 202, etc. for each level, according to Section 4(D) and (E). For commercial buildings a marquee should be placed at the main entrance with the names, numbers and level of each occupancy.
- (D) For multi-story apartment buildings with separate entrances a main address number shall be placed on front of the building and each individual entrance shall be numbered using 1, 2, 3 or A, B, C, etc.

SECTION 5 COMPLIANCE

All owners of buildings shall, by the date stipulated in Section 7, display and maintain in a conspicuous place on said building, the assigned numbers in the following manner:

- (A) Number on the building or residence: Where the building or residence is within 50 (fifty) feet of the edge of the right-of-way, the assigned number shall be displayed on the front of the building or residence as near to the front door or entry as practical but in such a manner it can be seen from the edge of the right-of-way.
- (B) Number at street Line: Where the residence or building is over 50 (fifty) feet from the edge of the right-of-way, the assigned number shall be displayed on a post, fence, wall, mail box, or some structure at the property line next to the walk or access drive to the residence or building.
- (C) Size and color of number: Numbers shall have a minimum height of 4" and be of a color that contrasts with their background. Numbers shall be placed on the building or post in such a manner that they are visible from the roadway.

Recommendations

- Do not attach numbers made from solid materials such as brass or wood directly to the siding, door or painted surface. These types of numbers should be placed on a background of a contrasting color.
- When placing numbers on a roadside mailbox, numbers should be placed on both sides of the box and snow should be removed from the box.
- All numbers should be reflective if possible.
- Do not cover numbers with storm doors, decorations, or shrubbery.
- Every person whose duty it is to display the assigned number shall remove any different number that might be mistaken for, or confused with, the number assigned in conformance with this ordinance.
- Interior location: All residences and other occupants are requested to post the assigned number and road name next to their telephone for emergency reference.

SECTION 6 NEW CONSTRUCTION AND SUBDIVISIONS

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

- (A) New construction: Whenever any residence or other occupied building is constructed or developed, it shall be the duty of the owner to obtain an assigned number from the Fire Department. This shall be done at the time of the issuance of the building permit.
- (B) New Subdivisions: Any prospective sub-divider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the addressing authority, shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed streets or roads, the

applicant shall mark on the plan, lines or dots, in the center of streets or roads every 100 (one hundred) feet to aid the assignment of numbers to residence or buildings subsequently constructed.

SECTION 7 EFFECTIVE DATE

This ordinance shall become effective as of its adoption date February 13, 2013. It shall be the duty of the Fire Department to notify by mail each property owner and the Post Office of a new address at least 30 (thirty) days before the effective date of its use. It shall be the duty of each property owner to comply with this ordinance, including the posting of new property numbers, within 30 (thirty) days following notification. On new construction, numbering shall be installed before final inspection or when the building is first used or occupied, whichever comes first.

SECTION 8 ENFORCEMENT

Enforcement of this Ordinance shall be the responsibility of the Fire Department. The Fire Department will investigate complaints of violations and notify alleged violator before commencing legal action. Any person who shall violate any or the restrictions of this Ordinance shall be liable to pay a penalty to the Town of Fairfield which shall be assessed at the rate of \$10.00 per day for each and every day that such violation shall continue.

SECTION 9 APPEAL

Any person who shall deem himself aggrieved by the administration of this ordinance or by the failure or refusal of the person authorized to enforce this ordinance may appeal the decision to the Town Council of the Town of Fairfield at any time within thirty (30) days of notification of violation, by informing the Fire Department in writing, of said appeal.

SECTION 10 VALIDITY, SEVERABILITY AND CONFLICT WITH OTHER ORDINANCES

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 this Ordinance.

Dated: August 20, 1996

Amended: February 13, 2013

Town of Fairfield

Subdivision Ordinance

**Revised as Regulations on:
October 3, 1988**

**Accepted as Ordinance as of :
June 9, 1989**

**Amended: February 12, 1991
August 21, 1991
February 18, 1992
June 6, 1995
December 14, 1995
April 14, 2010
March 13, 2013**

AMENDMENT

April 14, 2010

At the Town Council Meeting of April 14, 2010 the Council took the following action:

Amend the Subdivision Ordinance, Article XII, Street & Storm Drainage Design & Construction Standards, Section 12.2(G) (Street Design Standards) to change the width of a private right-of-way **from sixty (60) feet to forty (40) feet.**

Subdivision Ordinance

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ARTICLE I. PURPOSES

The purposes of this ordinance is to assure the comfort, convenience, safety, health, and welfare of the people, of the Town of Fairfield, 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 Fairfield, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed Subdivision will meet the guidelines of Title 30-A, M.R.S.A. Section 4551, subsection 3. The Subdivision:

- 1.1 Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above the sea level and its relation to the floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents;
- 1.2 Has sufficient water available for the reasonable foreseeable needs of the Subdivision;
- 1.3 Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- 1.4 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- 1.5 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- 1.6 Will provide for adequate solid and sewage waste disposal;
- 1.7 Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized.
- 1.8 Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline; and
- 1.9 Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, if any;
- 1.10 The subdivider has adequate financial and technical capacity to meet the above stated standards;
- 1.11 Whenever situated in whole or in part, within 250 feet of any pond, lake, river, or tidal waters, will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water;
- 1.12 Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- 1.3 All principle structures within the Subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100 year flood elevation.

ARTICLE 11. AUTHORITY AND ADMINISTRATION

2.1 Authority

- A. These Standards have been prepared in accordance with the provision of Title 30-A, M.R.S.A., Section 4551, Subsection 2.
- B. These standards shall be known and may be cited as "Subdivision Ordinances of the Town of Fairfield, Maine".

2.2 Administration

- A. The Planning Board of the Town of Fairfield, hereinafter called the Board, shall administer these standards.
- B. The provisions of these standards shall pertain to all land proposed for Subdivision, as defined in Title 30-A, M.R.S.A., Section 4551, Subsection 1, within the boundaries of the Town of Fairfield.
- C. Effective date of this Document was October 3, 1988 as revised Regulations, which was adopted as an Ordinance on June 9, 1989.

ARTICLE III. DEFINITIONS

In general, words and terms used in this ordinance shall have their customary dictionary meanings. For greater convenience in clarity the following terms are defined:

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

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

Comprehensive Plan or Policy Statement: Any part or element of the overall plan or policy for development of the municipality as defined in Title 30-A, M.R.S.A., Section 4502.

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.

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

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 separated from other such rooms or suites or rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities; includes single family houses, and the units in a duplex, apartment house, multi-family dwellings, and residential condominiums.

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

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

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

Normal High Water Mark of Inland Waters: That line on the shores of banks on non-tidal waters which is apparent because of the different character and contiguous soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: Water lily, pond lily, pickerel-weed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridge berry, sassafras, pines, cedars, oaks, ashes, elders, 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.

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

Net Residential Acreage: The total acreage available for the Subdivision, and shown on the Proposed Subdivision Plan, minus the area for the streets or access and the areas which are unsuitable for development.

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

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

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

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

Planning Board: The Planning Board of the Town of Fairfield, created under Title 30-A, M.R.S.A., Section 4505

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

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

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

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

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

Street Classification:

Arterial Street: A major throughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets: Route 201 and Route 139.

Collector Street: A street servicing at least 200 vehicle trips per day of streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

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

Minor Street: A street servicing less than 200 vehicle trips per day.

Note: 200 vehicle trips per day would be generated by twenty (20) single family houses.

Private Right-of-Way: A vehicular access way.

Subdivision: The division of a tract or parcel of land into three (3) or more lots within any five (5) year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings, or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this Ordinance, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purpose of this Ordinance.

In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two (2) lots and the next dividing of either said first two (2) lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create the third lot, unless both such dividing are accomplished by a subdivider who shall have retained one (1) such second dividing.

A lot of at least forty (40) acres shall not be counted as a lot.

For the purposed of this Ordinance, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such read was established by the owner of land on both sides thereof.

The term subdivision shall also include such developments as mobile home parks, multiple family dwellings, cluster housing, shopping centers, condominiums, and industrial/commercial parks where there are three or more interests in the ground under or adjoining the units are also being conveyed.

Subdivision, Major: Any Subdivision containing more than four (4) lots or dwelling units, or any Subdivision containing a proposed street.

Subdivision, Minor: Any Subdivision containing not more than four (4) lots or dwelling units, and in which no street is proposed to be constructed.

Tract, or Parcel, of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, or a private road established by the abutting land owners.

Article IV. Administrative Procedure

4.1 Purpose

The purpose of this article is to establish an orderly, equitable and expeditious procedure for reviewing Subdivision.

4.2 Agenda

In order to avoid unnecessary delays in processing applications for Subdivision Review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least one week in advance of a regularly scheduled meeting by contacting the Chairman or designated agent. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes, definitive action may be taken on items not included on the agenda.

Article V. Preapplication

5.1 Procedure

- A. Applicant presentation and submission of Sketch Plans.
- B. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submission.
- C. Scheduling of on-site inspection.

5.2 Submission

The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the Sketch Plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. Topographic Map of the area showing the outline of the Proposed Subdivision, unless the Proposed Subdivision is less than ten (10) acres in size.

5.3 On-Site Inspection

The subdivider shall arrange, at a mutually agreeable time, for an on-site inspection of the property in question with at least one member of the Planning Board or a person appointed by the Board. The applicant shall place a "flagging" at the center line of the proposed streets, and at approximate intersections of the street center lines and lot corners, prior to the on-site inspection.

5.4 Notification and Contour Interval

Within thirty (30) days after such preliminary on-site inspection, the Board shall notify the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision.

5.5 Rights not Vested

The submittal or review of the preapplication Sketch Plan shall not be considered the initiation of the review process for the purposes of bringing the Plan under the protection of Title 1, M.R.S.A., Section 302.

Article VI. Minor Subdivisions

6.1 General

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

6.2 Procedure

- A. Within six (6) months after the on-site inspection by the Board, the sub-divider shall submit an application for approval of a Final Plan at least seven (7) days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for Final Plan approval for Minor Subdivision shall be accompanied by an application fee of \$80.00 payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover additional costs of advertising and postal notification.
- C. The Board or its agent, shall notify in writing all owners of abutting property that an application for Subdivision approval has been submitted.
- D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.
- F. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing.
- G. Within thirty (30) days of a public hearing, or within sixty (60) days of receipt of a complete application, if no hearing is held, or within another time limit an may be otherwise mutually agreed to by the Board and the subdivider, the Board shall make findings of fact of the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reason for any conditions or denial.

6.3 Submissions

- A. The Subdivision Plan for a Minor Subdivision shall consist of two (2) reproducible, stable based transparent originals, one to be recorded at the Registry of Deed, the other to be filed at the Municipal Office and three copies of one or more maps or drawings drawn to a scale of not more than one hundred (100') feet to the inch. Plans for Subdivisions containing more than one hundred (100) acres may be drawn on a scale of not more than two hundred feet (200' to 1") to the inch provided all necessary details can be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two (2") inches outside of the border lines on the left side for binding and a one (1") inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the Plan shall be submitted.

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

1. Proposed name of the Subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
2. Verification of right, title, or interest in the property.
3. A statement of financial and technical capability needed to complete this project.
4. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The Plan shall indicate the type of monument set or found at each lot corner.
5. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
6. A copy of any deed restrictions intended to cover all or part of the lots in the Subdivision.
7. Indication of the type of sewage disposal to be used in the Subdivision.
 - a. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sewer Department stating the Town has the capacity to collect and treat the wastewater shall be provided.
 - b. When sewage disposal is to be accomplished by subsurface waste-water disposal systems, test pit analysis, prepared by a Licensed Site Evaluator, shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
8. Indication of the type of water supply system(s) to be used in the Subdivision.
 - a. When water is to be supplied by public water supply, a written statement from a servicing water district shall be submitted indicating there is adequate supply and pressure for the Subdivision and approving the plans for extensions where necessary. Where the district's supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the district approving the design of the extension shall be submitted.
 - b. When water is to be supplied by the private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a Hydro geologist familiar with the area.
9. The date the Plan was prepared, north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the Plan, and the names of adjoining property owners. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.
10. A copy of the portion of the County Soil Survey covering the Subdivision. When the medium intensity Soil Survey shows soils which generally unsuitable for the uses proposed, the Board may require the submittal of a High Intensity Soil Survey or a report by a registered Soil Scientist or Registered Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.

11. The number of acres within the proposed Subdivision, location of property lines, existing buildings, watercourses, vegetative cover sites, and other essential existing physical features. On wooded sites, the Plan shall indicate the area where clearing for lawns and structures shall be permitted.
12. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
13. 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.
14. A hydrogeologic assessment may be required for development which meet all of the following criteria:
 - a. On-site subsurface wastewater disposal;
 - b. Project is located on a sand and gravel deposit;
 - c. On-site potable water supply wells; and
 - d. Any of the lots are less than 80,000 square feet in size.

NOTE: There may be special circumstances which do not meet all the criteria listed above for which a hydrogeologic assessment may be required.

The hydrogeologic assessment should include at a minimum the information as described in Paragraph 11.10.
15. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.
16. For Subdivisions involving forty (40) or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended level of service on the effected streets. Trip generations rates used shall be the means described in "I.T.E. Trip Generation Manual", 4th Edition, published by the Institute of Transportation engineers.

6.4 Final Approval and Filing

- A. No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plan.
- B. Upon findings of fact and determination that all Standards is Title 30-A, M.R.S.A., Section 4551, Subsection 3, and this Ordinance have been met, and upon voting to approve the Subdivision, the Board shall sign the Final Plan. The Board shall specify, in writing, its findings of fact and reasons for any conditions or denial. One copy of the signed Plan shall be retained by the Board as part of its permanent records. One copy of the signed Plan shall be forwarded to the Tax Assessor. One copy of the signed Plan shall be forwarded to the Code Enforcement Officer. Any Subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the Plan is approved and signed by the Board shall become null and void.
- C. No changes, erasures, modifications, or revisions shall be made on any Final Plan after the approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article IX. The Board shall make findings that the revised Plan meets the Standards of Title 30-A, M.R.S.A., Section 4551, subsection 3, and this Ordinance.

In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

- D. The approval by the Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such Plan. When a park, playground, or other recreation area still have been shown on the Plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provisions for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- E Failure to commence substantial construction of the Subdivision within five (5) years of the 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.

Article VII. Preliminary Plan for Major Subdivision

7.1 Procedure

- A. Within six (6) months after the on-site inspection by the Board, the sub-divider shall submit an application for approval of a Preliminary Plan at least seven (7) days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendation made by the Board.
- B. All applications for Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee of \$15.00 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of \$25.00 per lot or dwelling unit to be deposited in a special account designated for that Subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application and to cover the cost of inspection if required improvements. If the balance in this special account shall be drawn down by seventy-five (75%) percent, the Board shall notify the applicant, and require the additional \$10.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by seventy-five (75%) percent of the original deposit.
- C. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.
- D. Upon receipt of an application for Preliminary Plan approval of a Major Subdivision, the Board of its agent shall notify, in writing, all owners of abutting property that an application for Subdivision approval has been submitted.
- E. Within thirty (30) days of receipt of a preliminary Plan application form and fee, the Board shall notify the applicant, in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- F. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of receipt of a complete application, and shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing.
- G. The Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the fact and reasons for any conditions or denial.
- H. When granting approval to a preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
 - 1. The specific changes which it will require in the Final Plan.
 - 2. The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and

pre-requisite to the approval of the Final Plan.

Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of this Ordinance and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the Subdivision or as a result of new information received.

7.2 Submissions

A. **Location Map:** The Preliminary Plan shall be accompanied by a Location Map adequate to show the relationship of the Proposed Subdivision with the municipality. The Location Map shall show:

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

B. **Preliminary Plan:** The Preliminary Plan shall be submitted in three (3) copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scaled of not more than one hundred (100) feet to the inch. The Board may allow plans for Subdivisions containing more than one hundred (100) acres to be drawn at a scale of not more than two hundred (200) feet to the inch provided all necessary details can easily be read. In addition, the subdivider may be required to furnish one copy of the Plan(s) reduced to a size of 8 1/2 x 11 inches or 11 X 17 inches, and all accompanying information be mailed to each Board member no less than seven (7) days prior to the meeting. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval"

1. Proposed name of the Subdivision and the name of the municipality in which it is located, plus the Tax Assessor's Map and Lot numbers.
2. Verification of right, title, or interest in the property.
3. A statement of financial and technical capability needed to complete this project.
4. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments.
5. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
6. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the Subdivision.
7. Contour lines at the interval specified by the Planning Board, showing elevations in relation to mean Sea Level.

8. The number of acres within the proposed Subdivision, location of property lines, existing buildings, water courses, vegetative cover type, and other essential existing physical features.
9. Indication of the type of sewage disposal to be used in the Subdivision.
 - a. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the Sewer Department indicating there is adequate capacity within the department's system to transport and treat the sewage shall be submitted.
 - b. When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analysis, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
10. Indication of the type of water supply system(s) to be used in the Subdivision.

When water is to be supplied by public water supply, a letter from the servicing water district shall be submitted indicating there is adequate supply and pressure for the Subdivision.

11. The date the Plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the Plan. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.
12. The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the Subdivision.
13. The location of any zoning boundaries affecting the Subdivision.
14. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
15. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the Subdivision.
16. The width and location of any street or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the Subdivision.
17. The proposed lot lines with approximate dimensions and lot areas.
18. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
19. The location of any open space to be preserved and a description of proposed improvement and management.
20. A copy of that portion of the County Soil Survey covering the Subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
21. 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.
22. A hydrogeologic assessment may be required for developments which meet all of the following criteria:

- a. On-site subsurface wastewater disposal;
- b. Project is located on a sand and gravel deposit;
- c. On-site potable water supply sells; and
- d. Any of the lots are less than 80,000 square feet in size.

NOTE: There may be special circumstances which do not meet all the criteria listed above for which a hydrogeologic assessment may be required.

The hydrogeologic assessment should include at a minimum the information as described in Paragraph 11.10.

23. An estimate of the amount and type of vehicular traffic to be generated in a daily basis and at peak hours.

24. For Subdivisions involving forty (40) or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a registered Professional Engineer with experience in traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets. Trip generation rates used shall be the mean value reported in I.T.E. Trip Generation Manual 4th edition, published by the Institute of Transportation Engineers.

Article VIII. Final Plan for Major Subdivision

8.1 Procedure

- A. The Subdivider shall, within six (6) months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan at least Seven (7) days prior to a scheduled meeting of the Board. If the application for the Final Plan is not submitted within six (6) months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.
- B. All applications for Final Plan approval for Major Subdivision shall be accompanied by an application fee of \$20. per lot or dwelling unit payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.
- C. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:
 - 1. Maine Department of Environmental Protection, under the Site Location of Development Act, Fresh Water Wetlands Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.
 - 2. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
 - 3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
- D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- E. Upon determining that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application. All owners of abutting property may be notified, in writing, that a Final Plan application for Subdivision approval has been submitted.
- F. A public hearing may be held by the Planning Board within thirty (30) days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two (2) times, the date of the first publication to be at least seven (7) days before the hearing and the notice of the hearing shall be posted in at least three (3) prominent places at least seven (7) days prior to the hearing.

When a subdivision is located within 500 feet of a municipality boundary, and a public hearing is to be held, the Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten (10) days prior to the hearing.
- G. The Planning Board shall notify the Road Commissioner, School Superintendent, Police Chief, and Fire Chief of the proposed Subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Planning Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to serve the proposed Subdivision.
- H. Before the Board grants approval of the Final Plan, the subdivider shall meet the Performance Guarantee requirements contained in Article XIII.

If the Subdivision is located in more than one municipality, there shall be a joint meeting of the Planning Board(s) of the adjacent municipality to discuss the Plan.

- J. The Board, within thirty (30) days from the public hearing or within sixty (60) days of receiving a complete application, if no hearing is held, shall make findings of fact, and conclusions relative to the standards contained in Title 30-A, M.R.S.A., Section 4551, Subsection 3 and in this Ordinance. If the Board finds that all standards of the Statute and this Ordinance have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute and this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the Subdivision. The reason for any conditions shall be stated in the records of the Board.

8.2 Submissions

The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred (100') feet to the inch. Plans for Subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred (200') feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two (2') inches outside of the border line on the left side for binding and a one (1") inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. Two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Offices, and three (3) copies of the Plan shall be submitted. The subdivider may, instead submit one reproducible stable based transparent original of the Final Plan and one Recording Plan with three(3) copies of the Final Plan. In addition, one copy of the Final Plan, reduced to a Size of 8 1/2 X 11 inches or 11x17 inches, and all accompanying information shall be mailed to each Board member no less than seven (7) days prior to the meeting.

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

- A. Proposed name of the Subdivision and the name of the municipality it is located, plus the Assessor's Map and Lot numbers.
- B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a license land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The Plan shall indicate the type of monument set or found at each lot corner.
- C. The number of acres within the proposed Subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- D. Indication of the type of sewage disposal to be used in the Subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement for the Sewer Department indicating the Department has reviewed and approved the sewerage design shall be submitted.
- E. Indication of the type of water supply(s) to be used in the Subdivision.
1. When water is to be public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design. A written statement shall be submitted from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.
 2. When water is to be supplied by private wells evidence of adequate ground water supply and quality shall be submitted by a written statement from either a well driller

or a Hydrogeologist familiar with the area.

- F. The date the Plan was prepared. Magnetic and true north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the Plan.
- G. The location of any zoning boundaries affecting the Subdivision.
- H. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- I. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks, and other open spaces on or adjacent to the Subdivision. The Plan shall contain sufficient data to allow the location bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included.
- J. A Soil Erosion and Sedimentation Control Plan, prepared in accordance with the standards contained in the latest revised edition of the **Environmental Quality Handbook** published by the U.S. Soil Conservation Service.
- K. A plan for the disposal surface drainage waters prepared by a Registered Professional Engineer, in accordance with the latest revised edition of Technical Release 55, **Urban Hydrology for Small Watersheds**, published by the U.S. Soil Conservation Service.
- L. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the Subdivision.
- M. All parcels of land proposed to be dedicated to public uses and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted.
- N. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality, or quasi-municipal districts. These list shall include but not be limited to:
 - Schools, including busing.
 - Street maintenance and snow removal.
 - Police and fire protection.
 - Solid waste disposal.
 - Recreation facilities.
 - Storm water drainage.
 - Wastewater treatment
 - Water supplyThe developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the Subdivision.
- O. 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 to the Plan.

8.3 Final Approval and Filing

- A. No Plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plan.
- B. Upon findings of fact and determination that all Standards in Title 30-A, M.R.S.A>, Section 4551, subsection 3, and this Ordinance have been met, and upon voting to approve the Subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of fact and reasons for any conditions or denial. One copy of the signed Plan shall be retained by the Board as part of its permanent records. One copy of the signed Plan shall be forwarded to the Tax Assessor. One copy of the signed Plan shall be forwarded to the Code Enforcement Officer. Any Subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the Plan is approved and signed by the Board shall become null and void.
- C. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the Proposed Subdivision informs the Board that their department of district does not have adequate capital facilities to service the Subdivision, the Board shall require the Plan to be divided into two or more section subject to any conditions the Board deems necessary in order to allow the orderly planning, financial and provision of public services to the Subdivision.
- D. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article IX. The Board shall make findings that the revised plan meets the Standards of Title 30-A, M.R.S.A>, Section 451. subsection 3, and this Ordinance. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
- E. The approval by the Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such Plan. When a park, playground, or other recreational area shall have been shown on the Plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan contain to appropriate notes to this effect. 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 dedicated area.
- F. Failure to commence substantial construction of the Subdivision within five (5) years of the date of approval and signing 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.
- Above has been replaced with: "Failure to construct at least SEVENTY-FIVE (75%) per cent of the infrastructure within TWO (2) years from the date of approval of a Subdivision Final Plan, shall require a review and reapproval of said Final Plan by the Planning Board; or shall be subject to being null and void.**

The above mentioned infrastructure shall include any roads, sanitary/storm drainage system, water supply, and other standards as stated in the approved Final Plan and recorded at the Registry of Deeds.

Also, the Planning Board may extend the above mentioned TWO (2) year period, if the size of subdivision project merits longer time for completion of infrastructure." (Approved by Town Council Aug. 21, 1991)

Article IX. Revisions to Approved Plans

9.1 Procedure

An applicant for a revision to a previously approved Plan shall, at least seven (7) days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for Preliminary Plan approval shall be followed. If the revision involves only modifications of the approved Plan, without the creation of additional lots or dwelling units, the procedures for Final Plan approval shall be followed.

9.2 Submissions

The applicant shall submit a copy of the approved Plan, as well as three (3) copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this Ordinance.

9.3 Scope of Review

The Board's scope of review shall be limited to those portions of the Plan which are proposed to be changed.

Article X. Enforcement

10.1 Inspection or Required Improvements

- A. At least five (5) days prior to commencing each major phase of construction or required improvements, the subdivider or builder shall:
- Notify the Code Enforcement Officer 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 assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Planning Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.
- C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden out crops of bedrock, natural springs, etc. The inspecting official in writing shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocations of rights-of-way, property boundaries, changes of grade by more than one percent (1%), etc., the subdivider shall obtain permission to modify the Plans from the Board.
- D. At the close of each summer construction season the Town shall, at the expense of the Subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered. No road construction shall be performed from December 1 through April 1 without permission of the Public Works Director. (Amended 9/13/90).
- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the Plan has been installed.
- F. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way at Town Meeting, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed town way meet or exceeds the design and construction requirements of this Ordinance. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.
- G. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality.

10.2 Violations and Enforcement

- A. No Plan of a division of land within the municipality which would constitute a Subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the

Board in accordance with this Ordinance.

- B. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a Subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in an approved Subdivision which is not shown on the Final Plan as a Separate lot.
- D. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a Subdivision which has not been approved as required by this Ordinance shall be punished by a fine of not less than \$100, and not more than \$2,500 for each such conveyance, offering or agreement. The Municipality may institute proceedings to enjoin the violation of this Section, and may collect attorney's fees and court costs if it is the prevailing party.
- E. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a Subdivision for which a Final Plan has not been approved by the Board.
- F. Development of a Subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved as provided in this Ordinance and recorded in the Registry of Deeds.
- G. No lot in a Subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is complete in accordance with this Ordinance.

Article XI. General Standards

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

11.1 Conformance with Comprehensive Plan. All proposed Subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent State and local codes and Ordinance.

11.2 Retention of Open Spaces and Natural or Historic Features.

- A. The Plan shall, by notes on the Final Plan and deed restrictions, limit the clearing of all trees to those areas designated on the Plan.
- B. The Board may require the reservation of up to ten percent (10%) of the area of the Subdivision as open space. In determining the need for open space the Board shall consider the proximity of the Subdivision to the neighboring dedicated open space or recreation facilities or scenic or natural beauty of the area; the needs identified in the municipal Comprehensive Plan or Recreation Plan for open space or recreation facilities in the neighborhood surrounding the Subdivision; the type of development and the demographic characteristics of potential residents in the Subdivision; and the density of lot sizes of the development.
- C. Land reserved for Open Space purposes shall be of a character, configuration and location suitable for the particular use intended. (A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry.)
- D. Reserved land acceptable to the Town and subdivider may be dedicated to the municipality as a condition of approval.
- E. The Board may acquire that the Development Plans include a Landscape Plan, that shall show the replacement of trees and vegetation, graded contours, streams and the preservation of scenic historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer.
- F. If the proposed Subdivision contains any identified historical or archeological sites, or any area identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare and irreplaceable natural areas, these areas shall be included in the open space, or suitably protected by appropriate covenants and management plans.

11.3 Blocks. Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require an utility/pedestrian easement, to provide for underground utility crossings and/or a pedestrian pathway of at least five (5') feet in width constructed in accordance with design Standards in Section 12.2K. Maintenance obligations of the easement shall be included in the written description of the easement.

11.4 Lots.

- A. All lots shall meet the minimum requirements of the Town of Fairfield Land Use Ordinance.
- B. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated.

- C. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two (2) or more roads, the Plan, and deed restrictions shall indicate vehicular access shall be located on the less traveled way.
- D. Wherever possible, side lot lines shall be perpendicular to the street.
- E. If a lot on one side of a stream, road or other similar barrier fails to meet the minimum requirements for lot size, it may be combined with a lot on the other side of the stream, or road to meet the minimum lot size.
- F. Flag lots and other odd shaped lots in which narrow strips are joined to other parcel in order to meet minimum lot size requirements are prohibited.
- G. Lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed Subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers.

11.5 Utilities. Any underground utilities shall be installed prior to the installation of the final gravel base of the road.

11.6 Require Improvements. The following improvements are required for all Subdivisions unless waived by the Board in accordance with provisions of this Ordinance:

A. Monuments:

1. Stone monuments shall be set at all street intersections.
2. Iron Pins shall be set at all comers and angle points of the Subdivision boundaries where the interior angle of the Subdivision boundaries is 135 feet or less.
3. Stone monuments shall be a minimum of six (6") inches square at the top and six (6') feet in length, and set in the ground at final grade level. After they are set, drill holes, 1/2 inch deep shall locate the point or points described above.
4. All other Subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation.
5. Drill hole in bedrock may be required in areas not suitable to the placement of monuments.

B. Water Supply:

1. When a Subdivision is to be served by a public water system, the complete supply system, including fire hydrants, shall be installed at the expense of the subdivider.
 - a. The subdivider shall provide a written statement from the servicing water company or district that adequate water for both domestic and fire fighting purposes can be provided without placing an undue burden on the source, treatment facilities or distribution system involved. The subdivider shall be responsible for paying the costs of system improvements necessary to serve the Subdivision.
 - b. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the Fire Chief.

2. When location of a Subdivision does not allow for a financially reasonable connection to a public water supply system, the Planning Board may allow the use of individual wells or a private community water system.

- a. Dug wells shall be permitted only if it is demonstrated to be not economically feasible to develop other ground water sources, and shall be constructed so as to prevent infiltration of surface water into the well. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the Plan.
- b. If a central water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system and shall conform to the Standards of the Maine Rules Relating to Drinking Water (10-44 A.C.M.R. 231).
- c. The subdivider shall construct ponds and dry hydrants to provide for adequate water storage for fire fighting purposes. An easement shall be granted to the municipality granting access to the dry hydrants where necessary. The Board may waive the requirement for fire ponds only upon submittal of evidence that the soil types in the Subdivision will not permit their construction.

C. Sewage Disposal

1. Public System:

- a. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1,000 feet of the proposed Subdivision at its nearest point. The Sewer Department shall certify that providing service to the proposed Subdivision is within the capacity of the system's collection and treatment system.
- b. The Sewer Department shall review and approve in writing the construction drawings for the sewage system.

2. Private Systems: 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.

D. Surface Drainage: The Storm Water Management Plans submitted in accordance with section 12.4 shall be installed.

11.7 Land Features.

- A. Topsoil shall be considered part of the Subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
- B. Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion and to minimize storm water runoff.
- C. To prevent soil erosion of shoreline areas, tree cutting in a strip extending one hundred feet (100') inland from the high water mark of any waterbody shall be limited in accordance with the following:
 1. No more than thirty (30%) percent of the total length of the strip on each lot shall be cleared.
 2. the removal of trees shall not create any single clear-cut opening greater than thirty (30') feet wide. Adjacent openings shall be separated by a distance of at least seventy (70') feet.

3. In the remaining seventy (70%) percent length of the strip, no trees larger than four (4") inches diameter at four (4') feet height shall be cut, and sufficient cover to preserve natural beauty and control erosion shall remain.

11.8 Dedication and Maintenance of Common Open Space and Services.

- A. 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 its principle purpose the conservation or preservation of land in essentially its natural condition, or by the municipality.
- B. Further Subdivision of the common land or its use for other than non-commercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land.
- C. The common open space shall be shown on the Final Plan with appropriate notation on the Plan to indicate that:
 - 1. It shall not be used for future building lots; and
 - 2. A part or all of the common open space may be dedicated for acceptance by the municipality.
- D. If any or all of the common open space and services are to be reserved for use by the residents, the by-laws of the proposed Homeowners Association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.
- E. Covenants for mandatory membership in the Homeowners Association setting forth the owners' rights, interests, and privileges in the Association and the common property, shall be reviewed by the Board and included in the deed for each lot or dwelling.
- F. The Homeowners Association shall have the responsibility of maintain the common property.
- G. 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.

11.9 Construction in Flood Hazard Areas. When any part of a Subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the Plan shall indicate that all principle structures on lots in the Subdivision shall be constructed with their lowest floor, including the basement, at least one foot (1') above the 100-year flood elevation. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood area.

11.10 Impact on Ground Water.

- A. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - 1. A map showing the basic soils types.
 - 2. The depth to the water table at representative points throughout the Subdivision.
 - 3. Drainage conditions throughout the Subdivision.

4. Data on the existing ground water quality, either from test wells in the Subdivision or from existing wells on neighboring properties.

5. An analysis and evaluation of the effect of the Subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the Subdivision, at the Subdivision boundaries and at a distance of 500 feet from potential contamination sources, whichever is a shorter distance.

6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the Subdivision and within 200 feet of the Subdivision boundaries.

- B. Projections of ground water quality shall be based on the assumption of draught conditions (assuming sixty (60%) percent of annual average precipitation).
- C. No Subdivision shall increase any contaminant concentration in the ground water to more than one-half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
- D. If ground water contains contaminants in excess of the primary standards, and the Subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
- E. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

11.11 Access Control and Traffic impacts.

- A. **General:** Provision shall be made for vehicular access to the Subdivision and circulation within the Subdivision in such a manner as to safeguard against hazards to traffic and pedestrians in existing streets and within the Subdivision, to avoid traffic congestion on any street and to provide safe and convenient circulation on public streets and within the Subdivision. More specifically, access and circulation shall also conform to the following standards and design criteria below:
 - 1. The vehicular access to the Subdivision shall be arranged to avoid traffic use of existing local residential streets.
 - 2. Where a lot has frontage in two or more streets, the access to the lot shall be provided to the the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
 - 3. The street giving access to the Subdivision and neighboring streets which can be expected to carry traffic to and from the Subdivision shall have traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated to the proposed Subdivision. No Sub-division shall increase the volume capacity ratio of any street above 0.8 nor reduce the street's Level of Service to "D" or below.
 - 4. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, and traffic controls within public streets.

5. Access ways shall be of a design and have sufficient capacity to avoid queuing of entering vehicles on any street.
6. Where topographic and other conditions allow, provisions shall be made for circulation access connections to adjoining lots of similar existing or potential use:
 - a. When such access connection will facilitate fire protection services as approved by the Fire Chief; or
 - b. when such services will enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a street.

B. **Subdivision Access Design for Subdivision Entering onto Arterial Streets.** When the access to a Subdivision is a street, the street design and construction standards of Article XII shall be met. Where there is a conflict between the Standards in this Section and the Standards of Article XII, the stricter or more stringent shall apply.

1. **General:** Access design shall be based on the estimated volume using the access classification defined below:

- a. Low Volume Access: Less than twenty-five (25) vehicle trips per day.
- b. Medium Volume Access: Any access that is not a low volume or high volume access.
- c. High Volume Access: Peak hour volume of 400 vehicles or greater.

2. **Sight Distances:** Accesses shall be designed in profile and grading and located to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle a minimum of ten (10') feet behind the curb line or edge of shoulder, with the height of the eye 3 1/2 feet, to the top of an object 4 1/2 feet above the pavement. The required sight distances are listed below for various posted speed limits.

- a. Two Lane Roads: a sight distance of ten (10') feet for each mile per hour of posted speed limit shall be maintained or provided.
- b. Four Lane Roads: The sight distance provided below are based on passenger cars exiting from accesses onto four lane roads and are designed to enable exiting vehicles:
 - (1) Upon turning left or right to accelerate to the operating speed of the street without causing approaching vehicles to reduce speed by more than ten (10) miles per hour, and
 - (2) Upon turning left, to clear the near half of the street without conflicting with vehicles approaching from the left.

Operating Speed (mph)	Safe Sight Distance- Left (ft)	Safe Sight Distance- Right (ft)
20	130	130
30	220	260
40	380	440
50	620	700

3. **Vertical Alignment:** Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Low volume accesses shall slope upward or downward from the gutter line on a straight slope of two percent (2%) or less for at least twenty-five (25') feet followed by a slope of

no greater than ten (10%) percent for the next fifty (50') feet. The maximum grade over the entire length shall not exceed fifteen (15%) percent. Medium and high volume accesses should slope upward or downward from the gutter line on a straight slope of two (2%) percent or less for at least twenty-five (25') feet. Following this landing area, the steepest grade on the access shall not exceed eight (8%) percent.

4. Low Volume Access:

- a. Skew Angle: Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no less than sixty (60) degrees.
- b. Curb Radius: The curb radius shall be between five (5') feet and fifteen (15') feet, with a preferred radius of ten (10') feet.
- c. Access Width: The width of the access shall be between twelve (12') feet and sixteen (16') feet, with a preferred width of sixteen (16') feet.
- d. Curb-Cut Width: Curb-cut width shall be between twenty-two (22') feet and forty-six (46') feet, with a preferred width of thirty-six (36') feet.

5. Medium Volume Accesses:

- a. Skew Angle: Medium Volume Accesses shall be eight one-way or two-way operation and shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than sixty (60) degrees.
- b. Curb Radius: Curb radii will vary depending if the access is one-way or two-way operation. On a two-way access the curb radii shall be between twenty-five (25') and forty (40') feet, with a preferred radius of thirty (30') feet. On one-way accesses, the curb radii shall be thirty (30') feet for right turns into and out of the site, with a five (5') foot radius on the opposite curb.
- c. Width: On a two-way access the width shall be between twenty-four (24') feet and twenty-six (26') feet, with a preferred width of twenty-six (26') feet, however, where truck traffic is anticipated, the width may be no more than thirty (30') feet. On a one-way access the width shall be between sixteen (16') feet and Twenty (20') feet, with a preferred width of sixteen (16') feet.
- d. Curb-Cut Width: On a two-way access the curb-cut width shall be between seventy-four (74') feet and one hundred-ten (110') feet with a preferred width of a eighty-six (86') feet. On a one-way access the curb-cut width shall be between forty-six (46') feet and seventy (70') feet with a preferred width of fifty-one (51') feet.

6. High Volume Access:

- a. Skew Angle: High volume Accesses shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than sixty (60) degrees.
- b. Curb Radius: Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between thirty (30') feet and fifty (50') feet. With channelization, the curb radii shall be between seventy-five (75') feet and one hundred (100') feet.

- c. Curb-Cut width: Without channelization, curb-cut width shall be between one hundred six (106') feet and one hundred sixty-two (162') feet with a preferred width of one-hundred fifty-four (154') feet. With channelization, the curb-cut width shall be between one hundred ninety-six (196') feet and two hundred sixty-two (262') feet with a preferred width of two hundred fifty-four (254') feet.
- d. Entering and exiting accesses shall be separated by a raised median which shall be between six (6') feet and ten (10') feet in width. Medians separating traffic flows shall be no less than twenty-five (25') feet in length, with a preferred length of one hundred (100') feet.
- e. Width: Access widths shall be between twenty (20') feet and twenty-six (26') feet on each side of the median, with a preferred width of twenty-four (24') feet. Right turn only lanes established by a channelization island shall be between sixteen (16') feet and twenty (20') feet, with a preferred width of twenty (20') feet.
- f. Appropriate traffic control signage shall be erected at the intersection of the access and the street and on medians and channelization islands.

7. Special Case Accesses: Special case accesses are one-way or two-way drives serving medium or high volume uses with partial access (right turn only) permitted. These accesses are appropriate on roadway segments where there is a raised median and no median breaks are provided opposite the proposed access. These accesses are usually located along the approach to major signalized intersections where a raised median may be provided to protect left turning vehicles and separate opposing traffic flows.

a. Perpendicular driveways:

- (1) Curb Radii: Curb radii shall be between thirty (30') feet and fifty (50') feet, with a preferred radius of fifty (50') feet.
- (2) Access Width: Access width shall be between twenty-six (26') feet and thirty (30') feet with a preferred width of thirty (30') feet. On two-way accesses, a triangular channelization island shall be provided at the intersection with the street. On each side of the island the one way drive shall be between fifteen (15') feet and twenty-four (24') feet with a preferred width of twenty (20') feet.
- (3) Curb-cut Width: The total curb-cut width shall be between eighty-six (86') feet and one hundred thirty (130') feet with a preferred width of one hundred thirty (130') feet.
- (4) Channelization Island: The channelization island on two way accesses shall be raised and curbed corner radii shall be two (2') feet.

b. Skewed Accesses:

- (1) Skew Angle: The skew angle shall be between 45 degrees and 60 degrees with a preferred angle of 45 degrees.
- (2) Curb Radii: Curb radii shall be between thirty (30') feet and fifty (50') feet on the obtuse side of the intersection, with a preferred radius of thirty (30') feet. Curb radii shall be between five (5') feet and ten (10') feet on the acute side of the intersection with a preferred radius of five (5') feet.
- (3) Access width: The width of the access shall be between fifteen (15') feet and twenty-four (24') feet with a preferred width of twenty (20') feet. Where entering and exiting accesses meet, the width shall be between twenty-

four (24') feet, with a preferred width if thirty (30') feet.

(4) Curb-Cut Width: The curb-cut width for each access shall be between thirty-five (35') feet and seventy-five (75') feet with a preferred width of forty-two (42') feet.

C. Access Location and Spacing.

1. **Minimum Corner Clearance:** Corner clearance shall be measured from the point of tangency (PT) for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed below based upon access or minor street volume and intersection type.

MINIMUM STANDARDS FOR CORNER CLEARANCE

Access Type	Minimum Corner Clearance (feet)	
	Intersection Signalized	Intersection Unsignalized
Low Volume	150	50
Medium Volume	150	50
High Volume	200	250
Special Case		
Right turn in only	50	50
Right turn out only	100	50
Right turn in/out only	100	50

Where the minimum standard for a full access drive cannot be met, only a special case access shall be permitted.

If based on the above criteria, full access to the site cannot be provided on either major or minor streets, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

2. **Access Spacing:** Access and street intersections shall be separated from adjacent accesses, streets and property lines as indicated in the table below, in order to allow major through routes to effectively serve their primary function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between accesses and from the access point of tangency to a projection of the property line at the edge of the roadway for access spacing to the property line.

SEE CHART PAGE 32

MINIMUM ACCESS SPACING						
Access Type	Minimum Spacing to Property Line (Dpl) ¹ (feet)	Minimum Spacing to Adjacent Access by Access Type ² and (DSP) ³				
		Low (feet)	Medium (feet)	High w/oRT* (feet)	High w/RT* (feet)	Special Case (feet)
Low Volume	5	***				
Medium Volume	10		75			
High Volume (w/oRT)*	75		75	150		
High Volume (x/RT)**	75		75	250	500	
Special Case	10		75	75	75	40****

¹ Dpl measured from point of tangency of access to projection of property line on roadway edge.

² For two (2) more accesses serving a single parcel, or from a proposed access from an existing access.

³ Dsp measured from point of tangency of access to point of tangency of adjacent access.

* High volume access without right-turn channelization.

** High volume with right-turn channelization.

*** Low volume accesses are not permitted in combination with other access types on a single lot.

**** Right-turn-in-only upstream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed.

D. **Number of Access:** The maximum number of accesses onto a single street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of accesses independent of frontage length.

1. No low traffic generator shall have more than one two-way access onto a single roadway.
2. No medium or high volume traffic generator shall have more than two (2) two-way accesses or three (3) accesses in total onto a single roadway.

E. **Construction Materials/Paving:**

1. All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.
2. All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses regardless of access volume shall be paved with bituminous concrete pavement within thirty (30') feet of the street right-of-way.

11.12 Mobile Home Parks. No mobile home park shall be established without submittal of a detailed developmental design to the Planning Board for Subdivision review and subject to the following minimal guidelines:

- A. The total area of every mobile home park shall consist of at least 5,000 square feet per unit if served by Town water and sewer, and at least 20,000 square feet per unit if NOT served by Town water and sewer.
- B. Any road within a mobile home park shall be accessible by all emergency vehicles at all times.
- C. A proper buffer barrier shall be maintained between the mobile home park and adjacent properties, as determined by the Planning Board.
- D. No mobile home nor service structure shall be permitted within fifty (50') feet of any residential building located on an adjacent lot.
- E. Each mobile home, within a park, shall conform to the Land Use set-back requirements.

Article XII. Street and Storm Drainage Design and Construction Standards

12.1 General Requirements.

- A. The Board shall not approve any Subdivision Plan unless proposed streets and storm water management are designed in accordance with any local ordinance or the specifications contained in this ordinance. Approval of the Final Plan by the Board, shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.
- B. Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a Plan view, profile, and typical cross-section of the proposed streets and existing within 300 feet of any proposed intersection. The Plan shall included the following information:
1. Date, scale, and magnetic or true north point.
 2. Intersections of the proposed street with existing streets.
 3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
 4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
 5. Complete curve data shall be indicated for all horizontal and vertical curves.
 6. Turning radii at all intersections.
 7. Center line gradients.
 8. Location of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- C. Upon receipt of plans for a proposed public street, the Board shall forward one copy to the Municipal Officers, the Road Commissioner, and the Municipal Engineer for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the Municipal Engineer for review and comment.
- D. Where the subdivider proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Road Commissioner or the Maine Department of Transportation, as appropriate.
- E. Where the Subdivision streets are to remain private roads, the following words shall appear on the recorded plan:
"All roads in this Subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town".
- F. The developer shall be required to pave a new Subdivision street or provide a bond to the Town for such purpose, prior to the sale of any lot, as a condition of approval by the Planning Board.
- G. Any existing street in an already approved Subdivision, which is still privately owned as of December 6, 1995, and with respect to which an application to the Town for acceptance had been made as of June 9, 1989, shall be excepted from the requirement of this article. (Amended by Town Council, December 14, 1995).

12.2 Street Design Standards.

- A. These design standards shall be met by all streets within Subdivisions, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
- B. Streets shall be designed to discourage through traffic within a residential Subdivision.
- C. Reserve strips controlling access to street shall be prohibited except where their control is definitely placed with the municipality.
- D. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in this ordinance.
- E. Where a Subdivision borders an existing narrow street (not meeting the width requirements of the standards for street in this ordinance), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of the land in the Subdivision, the Plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes". Land reserved for such purposes may not be included in computing lot area or setback requirement is indicated on the Official Map, the reserved area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.
- F. Any Subdivision expected to generate average daily traffic of 200 trips per day or more, shall have at least two (2) street connections with existing public streets, streets shown on an Official Map, or streets on any approved Subdivision Plan for which Performance Guarantees have been filed and accepted. Any street with an average daily traffic of 200 trips per day or more, shall have at least two (2) street connections leading to existing public streets, streets shown on an Official Map, or street on an approved Subdivision Plan for which Performance Guarantees have been filed and accepted.

- G. The following design standards apply according to street classifications:

Description	Arterial	Collector	Minor	Private Right-of-Way	Commercial
Minimum R.O.W. Width	80'	60'	60'	**60'	60'
Minimum Pavement Width	44'	24'	22'	18'	30'
Sidewalk Width	8'	5'	5'	N/A	N/A
Minimum Grade	0.5%	0.5%	0.5%	N/A	0.5%
Maximum Grade	5.0%	8.0%	10.0%	10.0%	5.0%
Minimum Centerline Radius	500'	230'	150'	N/A	400'
Minimum Tangent Between Curves or Rev. Alignment	200'	200'	100'	N/A	200'
Roadway Crown	1/4"/ft	1/4"/ft	1/4"/ft	N/A	200'
Minimum Angel of Street Intersection (degrees)	90°	90°	75°	75°	
Maximum Curb Radii at Intersection	2.0%	3.0%	3.0%	N/A	2.0%
Minimum Curb Radii at Intersection	30'	20'	15'	N/A	30'
Minimum Width of shoulders (each side)	5'	3'	3'	***N/A	9'
Minimum Front Property Line Abutting Cul-de-sac	For	All	Class		100'

* Pertains to 90 degrees intersections.

** Amended April 14, 2010 from sixty (60) feet to forty (40) feet.

*** Amended March 13, 2013 from 3' to Not Applicable.

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

- I. **Dead End Streets:** In addition to the design standards above, dead end streets shall be constructed to provide a cul-de-sac turn-around with the following minimum requirements for radii: Property line sixty-five (65') feet; outer edge of pavement fifty (50') feet; inner edge of pavement thirty (30') feet. The Board may require the reservation of a twenty (20') foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a sixty (60') foot easement in line with the street to provide continuation of the road where future subdivision is possible.

An alternate to a cul-de-sac would be a branch type turnaround consisting of a parcel of land at least sixty (60') feet square and set off at a right angle on either side of a roadway, and whose length of pavement for said turnaround area from the centerline of the roadway to the end of the branch turn-around shall be at least fifty (50') feet. Also, the length of pavement from the edge of the inside radius of the branch turnaround to the end of the street shall be at least sixty (60) to seventy-five (75) feet. For further reference, please see the diagram below. The branch type turnaround shall be built in accordance with the street construction provisions adopted by the Town of Fairfield.

SEE DIAGRAM ON PAGE 37

The Board, on the advice of the Public Works Director, or an engineer, will set the type of turn-around required.

THE LENGTH OF THE PAVEMENT FROM THE EDGE OF THE INSIDE RADIUS OF THE BRANCH TURNAROUND TO THE END OF THE STREET SHOULD BE AT LEAST SIXTY (60) TO SEVENTY-FIVE (75) FEET.

THE LENGTH OF PAVEMENT FROM THE CENTER LINE OF THE ROADWAY TO THE END OF THE BRANCH SHALL BE AT LEAST FIFTY (50) FEET.

PARCEL OF LAND AT LEAST SIXTY (60) FEET SQUARE, SET OFF AT A RIGHT ANGLE ON EITHER SIDE OF THE ROADWAY.

BRANCH

J. **Grades, Intersection, and Sight Distances.**

1. Grades of all streets shall conform in general to the terrain, so that cut fill are minimized while maintaining the grade standards above.

2. All changes in grade shall be connected by vertical curves to provide the following minimum stopping sight distances based on the street design speed.

DESIGN SPEED (MPH)	20	25	30	35
Stopping Sight Distance	125	150	200	250

Stopping sight distance shall be calculated with a height of eye at 3.5 feet and the height of object at 0.5 feet.

3. Where new street intersections or driveway curb-cuts are proposed sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limited and conform to the table below: Sight distances shall be measured for the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of ten (10') feet behind the curb line or edge of shoulder, with the height of the eye 3 1/2 feet, to the top of an object 4 1/2 feet above the pavement.

POSTED SPEED LIMIT (MPH)	25	30	35	40	45	50	55
Sight Distance	250	300	350	400	450	500	550

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

4. Cross (four-corner) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of two hundred (200') feet shall be maintained between centerlines of side streets.

K. **Sidewalks:** Where stalled, sidewalks shall meet those minimum requirements.

1. **Bituminous Sidewalk:**

- a. The crushed aggregate base course shall be no less than eight (8") inches thick.
- b. The hot bituminous pavement surface course shall be no less than two (2") inches after compact.

2. **Portland Cement Concrete Sidewalks:**

- a. The sand shall be no less than six (6") inches thick.
- b. The Portland Cement concrete shall be reinforced with six (6") inch square, number 10 wire mesh and shall be no less than four (4") inches thick.

L. Granite curbing, if required, shall be installed on a thoroughly compacted gravel base of six (6") inches minimum thickness. Bituminous curbing, if required, shall be installed on the base course of the pavement. The specified pavement width above shall be measured between the curbs.

12.3 Street Construction Standards.

A. Minimum thickness of material after compaction.

Minimum Requirements					
Street Materials	Arterial	Collector	Minor	Private Right - of-way	Industrial/ Commercial
Aggregate Sub-base Course (Max sized stone 4")	18"	18"	18"	12"	18"
Crushed Aggregate Base Course	4"	3"	3"	3"	4"
Hot Bituminous Pavement*					
Total Thickness	**3 1/2"	**3"	**3"		**3 1/4"
Surface Course	1 1/2"	1"	1"		1 1/4"
Base Course	**2"	**2"	**2"		**2"

* Optional - at the discretion of the Board

** Amended March 13,2013

B. **Preparation:**

- Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty (50') foot intervals.
- Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush, and other objectionable materials. All ledge, large boulders, and tree stumps shall be removed from the right-of-way.
- All organic materials shall be removed to a depth of two (2') feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two (2') feet below the subgrade of the roadway. On soils which have been identified by the Town Engineer as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two (2') feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below.
- Except in a ledge cut side slopes shall be no steeper than a slope of three (3') feet horizontal to one (1') foot vertical and shall be graded, limed, fertilized, and seeded according to the specifications of the Erosion and Sedimentation Control Plan. Where a cut results in exposed ledge as a side slope no steeper than four (4') feet vertical to one (1') foot horizontal is permitted.
- All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

C. **Base and Pavement:**

1. Bases:

- The Aggregate Sub-base Courses** shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three (3") inch square mesh sieve shall meet the following grading requirements:

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
1/4 inch	25 - 70%
No. 40	0 - 30%
No. 200	0 - 7%

Aggregate for the sub-base shall contain no particles of rock exceeding four (4") inches in any dimension.

b. **The Aggregate Base Courses** shall be sand and gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three (3") inch square mesh sieve shall meet the following grading requirements:

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
1/2 inch	45 - 70%
1/4 inch	30 - 55%
No. 40	0 - 20%
No. 200	0 - 5%

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

3. **Curbs and Gutters:** Curbs and gutters shall be installed within the urban compact area, or within any areas designated in the Capital Improvements Plan or Comprehensive Plan as areas of compact development.

4. **Pavements:**

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

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

12.4 Storm Water Management Design Standards.

A. **Adequate provisions** shall be made for disposal of all storm water generated within the Subdivision, and any drained ground water through a management system of swales, culverts, under drain, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing water-courses or storm drains.

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

2. Drainage easements for existing water-courses or proposed drainage ways shall be provided at least thirty (30') feet wide, conforming substantially with the lines of existing natural drainage.

3. All components of the storm water management system shall be designed to limit peak discharge to predevelopment levels for every storm between the two (2) year and the twenty-five year, twenty-four (24) hour duration, frequencies, based on rainfall data for Portland, Maine. When the Subdivision discharges directly to a major water body, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized.

4. The minimum pipe size for any storm drainage shall be twelve (12") inches. Maximum trench width at the outside diameter of the pipe plus two (2') feet. Pipe shall be bedded in a fine granular materials, containing no stones larger than three (3") inches, lumps of clay, or organic matter, reaching a minimum of six (6") inches below the bottom of the pipe extending to six (6") inches above the top of the pipe.

- B. **The storm water management system** shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor or twenty-five (25%) percent for potential increases in up-stream runoff.
- C. **Downstream drainage requirements** shall be studied to determine the effect of the proposed Subdivision. The storm drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of twenty-five (25%) percent for potential increases in up-stream runoff.
- D. **Catch basins** shall be installed where necessary and located at the curb line.
- E. **Outlets** shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.
- F. **Where soils require a subsurface drainage system**, the drains shall be installed and maintained separately from the storm water drainage system.

12.5 Storm Drainage Construction Standards.

A. **Materials:**

1. **Reinforced Concrete Pipe.** Reinforced Concrete Pipe shall meet the requirements of ASIM Designation C-76 (AASHTOM 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASIM Designation C443-70, or of an approved performed plastic jointing material such as "Ramnek". Perforated Concrete Pipe shall conform to the requirements of AASHTOM 175 for the appropriate diameters.

2. **Asbestos Cement Pipe.** Asbestos Cement Pipe shall meet the requirements of ASIM Designation C-428 (AASHTOM 198). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.5 on the crushing strength. Joints shall be of the rubber gasket type meeting ASIM Designation D-1869-63, or of an approved preformed plastic sleeve type.

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

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

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

6. **Manholes.** Manholes shall be of precast truncated cone section construction meeting the requirements of ASIM Designation C 478 or present concrete manhole construction meeting the requirements of ASIM Designation C 139, radial type. Bases may be cast in place 3,000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, class 30 for gray iron castings or AASHTO M (ASTMA 283, Grade B or better) for structural steel.

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

- B. **Drain inlet alignment** shall be straight in both horizontal and vertical alignment unless specific approval of curvilinear drain is obtained in writing from the Board, after consultation with the Municipal Engineer.
- C. **Manhole** shall be provided at all changes in vertical and horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of four hundred (400') foot intervals.
- D. **Upon Completion** each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

12.6 Additional Improvements and Requirements.

- A. **Erosion Control:** The procedures outlines in the Erosion and Sedimentation Control Plan shall be implemented during the site preparation, construction, and clean-up stages.
- B. **Cleanup:** Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.
- C. **Street Names, Signs and Lighting:** Streets which join and are in alignment with street of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the Municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street name, traffic safety and control signs. Street lighting shall be installed as approved by the Board.

12.7 Certification of Construction. "As built" plans shall be submitted to the Municipal Officers. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a professional engineer registered in the state of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets the design and construction requirements of this ordinance.

Article XIII. Performance Guarantees

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

- A. **Either a certified check** payable to the Town or a savings account certificate of deposit naming the Town as owner, for the establishment of an escrow account;
- B. **A Performance Bond** payable to the Town issued by a surety company, and acceptable to the Town.
- C. **An irrevocable letter of credit** (see Appendix B for sample) from a financial institution establishing funding for the construction of the Subdivision, from which the Town may draw if construction is inadequate, in such form not substance acceptable by the Town; or
- D. **An offer of conditional approval** limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the Performance Guarantee shall be determined by the Board or its agent, with the advice of the Town's Engineer, Road Commissioner, Municipal Officers, and/or Town Attorney.

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

13.3 Escrow Account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal, but the consent of the subdivider shall not be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the subdivider and the amount withdrawn to complete the required improvements.

Before the Planning Board grants final approval of the Final Plan, the subdivider shall, in an amount set by the Planning Board, either file with the Town a certified check to cover the full cost of the required improvements, or the subdivider shall file with the Town a Performance Bond to cover the full cost of the improvements. Any such bond shall be satisfactory to the Town Officers, Town Engineer or designated Engineer and Town Attorney as to form, sufficiency, manner of execution and surety. A period of one year, not to exceed three years, shall be set forth in the bond time within which required improvements must be completed. The certified check or bond shall include an amount required for recreation land or improvements as specified. The applicant shall present as part of his completed application, a copy of the receipt from the Town. Provisions for phasing road construction and subdivisions are contained in the Subdivision rules and regulations 13.7. Any certified check shall be deposited in the name of the Town by the Treasurer, in an interest bearing account and shall bear the name of the Developer and of the proposed subdivision, and withdrawals shall be made after designated Engineer has certified the work as completed. The Planning Board shall be duly notified prior to any withdrawal. Any work which has not been completed, shall be performed at the discretion of the Town and such work shall be paid from the escrow account. The Planning Board will recommend to the

Town Council such disbursements from the escrow account as will pay for completed work in accordance with an approved disbursement schedule. (Amended by Town Council Feb. 12, 1991).

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

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

13.6 Conditional Agreement. The Board, at its discretion may provide for the subdivider to enter into a binding agreement with the municipality in lieu of the other financial Performance Guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that up to four (4) lots may be sold or built upon until either:

- A. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with this Ordinance and the regulations of the appropriate utilities; or
- B. A performance Guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and pro-rated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the Performance Guarantees contained in Section 13.8.

13.7 Phasing of Development. The Board may approve the plans to develop a Major Subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that Section of the Proposed Subdivision street which is covered by a Performance Guarantee. When development is phased, road construction shall commence from an existing public way. Final approval in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

13.8 Release of Guarantee. Prior to the release of any part of the Performance Guarantee, the Board shall determine to its satisfaction, in part upon the report of the Town's Engineer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

13.9 Default. If, upon inspection, the Town Engineer finds that any of the required improvements have not been constructed in accordance with the Plans and specifications filed as part of the application, he shall so report in writing to the Code Enforcement Officer, the Municipal Officers, the Board, and the subdivider or builder. The Municipal Officers shall retain authority to take any steps necessary to preserve the Town's rights.

13.10 Improvements Guaranteed. Performance Guarantees shall be tendered for all improvements required by Section 11.7 of this Ordinance, and for the construction of the streets.

13.11 Inspection Fees. In addition to other fees for subdivision reviews (including 7.1B) the following fees are herein established in a separate interest bearing account to defray partially the cost of technical, legal, and administrative services required for the review, processing, and inspection of roads and streets: An amount equal to six (6%) percent of the estimated cost of construction to include water and sewer if applicable. This fee to be paid by the developer to the Town of Fairfield at the time of application for preliminary approval. Any unexpended monies will be returned to the developer upon completion of the project, and the designated engineer has certified the work as completed. (Amended by Town Council Feb. 12, 1991).

Article XIV. Waivers

14.1 Where the Board Makes Written Findings of Fact that are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements of the standards, unless otherwise indicated in this Ordinance, to permit a more practical and economical development, provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, the Zoning Ordinance, or this Ordinance and provided the criteria of the State Subdivision Law are met.

14.2 Where the Board Makes Written Findings of Fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed Subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.

14.3 In Granting Waivers to any of this Ordinance in accordance with Sections 14.1 and 14.2, the Board shall require such conditions as will assure the objectives of this Ordinance are met.

14.4 Waivers to be Shown on Final Plan. When the Board grants a waiver to any of the standards of this Ordinance, the Final Plan shall indicate the waivers granted and the date on which they were granted.

Article XV. Appeals

15.1 An aggrieved party may appeal any decision of the Board under this Ordinance to Somerset Superior Court, within thirty (30) days.

Appendix A

Title 30-A, M.R.S.A., Section 4551. Land Subdivisions

1. **Defined.** A subdivision is the division of a tract or parcel of land into three (3) or more lots within any five (5) year period, which period begins after September 23, 1971, whether accomplished by sale, lease, development, buildings, or otherwise, provided that division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality, unless the intent of that gift is to avoid the objectives of this Section, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of this Section.

In determining whether a tract or parcel of land is divide into three (3) or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two (2) lots, by whomever accomplished by a subdivider who shall have retained one of the lots for his own use as a single family residence or for open space land as defined in Title 36, Section 1102, for a period of at least five (5) years prior to that second dividing.

A lot of at least forty (40) acres shall not be counted as a lot except:

- A. Where the lot or parcel from which it was divided is located wholly or partly within any shore land area as defined in Title 38, Section 435; or
- B. When a municipality has, by ordinance, or the Municipal Reviewing Authority has, by regulation, elected to count lots of forty (40) acres or more in size as lots for the purposes of this subsection where the parcel of land being divided is located wholly outside any shore land area as defined in Title 38, Section 435.

For purposes of this Section, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered a separate tract or parcel of land unless such road was established by the owner of the land on both sides thereof.

A "densely developed area" is defined as any commercial, industrial or compact residential area of ten (10) or more acres with an existing density of at least one principle structure per two (2) acres. A principle structure is defined as any building other than one which is used for purposes wholly incidental or accessory to the use of another building on the same premises.

The term Subdivision shall also include such developments as mobile home parks, multiple family dwellings, cluster housing, shopping centers, condominium, and industrial/commercial parks where there are three or more interests in the ground under or adjoining the units are also being conveyed.

1-A. Special Protection for the Shore lands of Outstanding River Segments.

In accordance with Title 12, Section 402, outstanding river segments shall include:

- A. The Aroostook River** from the Canadian Border to the Masardis and T.10, P. 6, W.E.L.S. town line, excluding the segment in T. 9, R. 5, W.E.L.S.;

- B. The Carrabassett River** from the Kennebec River to the Carr Bassett Valley and Mt. Abram Township town line.
- C. The Crooked River** From it's inlet into Sebago Lake to the Waterford and Albany Township town line.
- D. The Damariscotta River** from the Route 1 bridge in Damariscotta to the dam at Damariscotta Mills.
- E. The Dennys River** from the Route 1 bridge to the outlet of Meddybemps Lake excluding the western shore in Edmunds Township and NO. 14 Plantation.
- F. The East Machias River**, including the **Maine River**, from 1/4 of a mile above the Route 1 bridge to the East Machias and T. 18, E.D., B.P.P. Townline, from the T.19, E.D., B.P.P. outlet of Crawford Lakes and from MO. 21 Plantation and Alexander townline to the outlet of Pocomoonshine Lake, excluding Hadley Lake, Lower Mud Pond and Upper Mud Pond.
- G. The Fish River** from the bridge at Fort Kent Mills to the Fort Kent and Wallagrass Plantation town line, from the T.16, R.6, W.E.L.S., and Eagle Lake town line to the Eagle Lake and Winterville Plantation town line, and from the T.14, R.6, W.E.L.S., and Portage Lake town line to the Portage Lake and T.13, R.7, W.E.L.S. town line excluding Portage Lake.
- H. The Kennebago River** from its inlet into Cupsuptic Lake to the Rangely and Lower Cupsuptic Township town line.
- I. The Kennebec River** from Thorns Head Narrows in North Bath to the Edwards Dam in Augusta, excluding Perkins Township, and from the Route 148 bridge in Madison to the Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Township and excluding Wyman Lake.
- J. The Machias River** from the Route 1 bridge to the Northfield and T.19, M.D., B.P.P. town line.
- K. The Mattawamkeag River** from the Penobscot River to the Mattawamkeag and Kingman Township town line, and from the Reed Plantation and Bancroft town line to the East Branch in Haynesville.
- L. The Narraguagus River** from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux town line, excluding Beddington Lake.
- M. The Penobscot River**, including the Eastern Channel, from Sandy Point in Stockington Springs to the Veazie Dam and its tributary, the East Branch of the Penobscot, from the Penobscot River to the East Millinocket and Grindstone Township town line.
- N. The Piscataquis River** from the Penobscot River to the Monson and Blanchard Plantation town line.
- O. The Pleasant River** from the bridge in Addison to the Columbia and T.18, M.D., B.P.P. town line, and from the T.24, M.D., B.P.P., and Beddington town line to the outlet of Pleasant River Lake.
- P. The Rapid River** from the Magalloway Plantation and Upton town line to the outlet of Pond in the River.
- Q. The Saco River** from the Little Ossipee River to the New Hampshire border.
- R. The St. Croix River** from the Route 1 bridge in Calais to the Calais and Banning Plantation town line, from the Banning Plantation and Baileyville town line to the Baileyville and Fowler Township town line, and from the Lambert Lake Township and Vanceboro town line to Flowage.

S. The St. George Lake from the Route 1 bridge in Thomaston to the outlet of Lake St. George in Liberty, excluding White Oak Pond, Seven Tree Pond, Rouch Pond, Sennebec Pond, Trues Pond, Stevens Pond and Little Pond.

T. The St. John River from the Van Buren and Hamlin Plantation town line to the Fort Kent and St. John Plantation town line, and from the St. John Plantation and St. Francis town line to the Allagash and St. Francis town line.

U. The Sandy River from the Kennebec River to the Madrid and Township E town line.

V. The Sheepscot River from the railroad bridge in Wiscasset to the Halldale Road in Montville, excluding Long Pond and Sheepscot Pond, including its tributary, the West Branch of the Sheepscot from its confluence with the Sheepscot River in Whitefield to the outlet of Branch Pond in China.

W. The West Branch of Pleasant River from the East Branch in Brownville to the Brownville and Williamsburg Township town line, and

X. The West Branch Union River from the Route 181 bridge in Mariaville to the outlet to Great Pond in the Town of Great Pond.

2. Municipal Review and Ordinance

A. Reviewing Authority. All request for Subdivision approval shall be reviewed by the Municipal Planning Board, agency or office or if none, by the Municipal Officers, hereinafter called the Municipal Reviewing Authority.

B. Ordinance. The Municipal Reviewing Authority may after a public hearing, adopt additional reasonable policies governing Subdivisions which shall control, until amended, repealed or replaced, by Ordinance adopted by the Municipal Legislative Body. The Municipal Reviewing Authority shall give at least seven (7) days notice of such hearing.

C. Record. On all matters concerning Subdivision review, the Municipal Reviewing Authority shall maintain a permanent record of all its meeting, proceedings and correspondence.

C - 1 Upon Receiving an Application, the Municipal Reviewing Authority shall issue to the applicant a dated receipt. Within thirty (30) days from receipt of an application, the Municipal Reviewing Authority shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Municipal Reviewing Authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed Subdivision.

D. Hearing Order. In the event that the Municipal Reviewing Authority determines to hold a public hearing on an application for Subdivision approval, it shall hold such hearing within thirty (30) days of receipt by it of a completed application, and shall cause notice of the date, time and place of such hearing to be given to the person making the application and to be published in a newspaper of general circulation in the municipality in which the Subdivision is proposed to be located, at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing.

The Municipal Reviewing Authority shall, within thirty (30) days of a public hearing or within sixty (60) days of receiving a completed application. If no hearing is held, or within such other time limit as may be otherwise mutually agreed to, issue an order denying or granting approval of the proposed Subdivision or granting approval upon such terms and conditions as it may deem advisable to satisfy the criteria listed in Subsection 3 and to satisfy any other Ordinance adopted by the Reviewing Authority, and to protect and preserve the public's health, safety and general welfare. In all instances the burden of proof shall be upon the person(s) proposing the Subdivisions. In issuing its decision, the Reviewing Authority shall make finding of fact establishing that the proposed Subdivision does or does not meet the foregoing criteria.

In addition, whenever the initial approval or any subsequent amendment of a Subdivision is based in part on the granting of a variance from any of the applicable Subdivision approval standards, that fact shall be expressly noted on the face of the Subdivision Plan to be recorded in the local Registry of Deeds or, in the case of any amendment if no amended plan is to be recorded, a certificate indicating the name of the current property owner, identifying the recorded deed in its chain file and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form and shall be recorded in the local Registry of Deeds within thirty (30) days of the final Subdivision approval or the variance shall be invalid. No rights may accrue to the variance recipient or his heirs, successors or assigns unless and until the recording is made within the thirty (30) days.

3. Guidelines. When promulgating any Subdivision Ordinance and when reviewing any Subdivision for approval, the Planning Board, agency or office, or the Municipal Officers, shall consider the following criteria and before granting approval shall determine that the proposed Subdivision:

- A. Will not result in undue water or air pollution. In making this determination it shall at least consider: The elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents, and the applicable State and local health and water resources Ordinance;
- B. Has sufficient water available for the reasonable foreseeable need of the Subdivision;
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- F. Will provide for adequate sewage waste disposal;
- G. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
- H. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

I. Is in conformance with a duly adopted Subdivision Regulation or Ordinance, Comprehensive Plan, Development Plan, or Land Use Plan, if any;

J. The subdivider has adequate financial and technical capacity to meet the above state standards;

K. Whenever, situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water; and

M. The subdivider will determine, based on the Federal Emergency Management Agency's Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the Subdivision is in a flood prone area. If the Subdivision, or any part of it, is in such an area the subdivider will determine the 100-year flood elevation and flood hazard boundaries within the Subdivision. The proposed Subdivision Plan shall include a condition of plat approval requiring that principal structures on lots in the Subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

3-A. Access to Direct Sunlight. The Planning Board, agency or office or the Municipal Officers may, for purposes of protecting and assuring access to direct sunlight for solar energy systems, prohibit, restrict or control development through Subdivision Ordinance. The Ordinance may call for Subdivision Development Plans containing restrictive covenants, height restrictions, side yard and setback requirements or other permissible forms of land use controls.

4 Enforcement. No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration any land in a Subdivision which has not been approved by the Municipal Reviewing Authority of the municipality where the Subdivision is located and recorded in the proper Registry of Deeds, nor shall such person, firm, corporation or other legal entity sell or convey any land in such approved Subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes but is not limited to the following: A granite monument, a concrete monument, an iron pin or a drill hole in ledge. No subdivision Plat or Plan shall be recorded by any Registry of Deeds which has not been approved as required. Approval for the purpose of recording shall appear in writing on the Plat or Plan. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a Subdivision unless written authorization attesting to the validity and currency of all local permits required under this chapter has been issued by the appropriate Municipal Officials. Following the installation of service, the company or district shall forward the written authorization to the Municipal Officials indicating that installation has been completed.

Any person, firm, corporation or other legal entity who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land in a Subdivision which has not been approved as required by this Section shall be penalized in accordance with Title 30-A, M.R.S.A., Section 4506. The Attorney General, the municipality, the Planning Board of any municipality or the appropriate Municipal Officers may institute proceedings to enjoin the violations of this Section.

All Subdivision Plats or Plans required by this Section shall contain the name and address of the person under who's responsibility the Subdivision Plat or Plan was prepared.

5 **Exemptions.** This section shall not apply to proposed Subdivisions approved by the Planning Board or the Municipal Officers prior to September 23, 1971, in accordance with laws then in effect nor shall it apply to Subdivision as defined by this Section in actual existence on September 23, 1971, that is not require approval under prior law or to a Subdivision as defined by this Section, a plan of which had been legally recorded in the proper Registry of Deeds prior to September 23, 1971. The division of a tract or parcel as defined by this Section into three (3) or more lots and upon all of

Subdivision.

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 Section, shall not become subject of this Section by the subsequent dividing of said tract of parcel of land or any portion thereof, however, the Municipal Reviewing Authority shall consider the existence of such previously created lot or lots in reviewing a proposed Subdivision created by such subsequent dividing.

6 **Revision to Existing Plat or Plan.** Any application for Subdivision approval which constitutes a revision or amendment to a Subdivision Plan which has been previously approved shall indicate that the fact on the application and shall identify the original Subdivision Plan being revised or amended.

If a Subdivision Plat or Plan is presented for recording to a Register of Deeds and that Plat or Plan is a revision or amendment to an existing Plat or Plan, the Register shall indicate on the index for the original Plat or Plan that it has been superseded by another Plat or Plan and shall reference the book and page or cabinet and sheet on which the new Plat or Plan is recorded. In addition, the Register shall ensure that the book and page or cabinet and sheet on which the original Plat or Plan is recorded is referenced on the new Plat or Plan.

Appendix B

Sample Letter of Credit

Jane Planner, Chairman
You Town Planning Board
Town Hall
Your Town, Me. 04000

Dear Ms. Planner:

RE: Letter of Credit: Developer, Inc., Sunshine Estates, Your Town, Maine.

This letter will confirm to Your Town that the Big Town Savings Bank has issued a loan commitment to Developer, Inc., for the purpose of constructing all required improvements in the "Sunshine Estates" Subdivision.

Big Town Saving Bank will set aside \$230,000 in a Construction Escrow Account, for completion of the required improvements. This account can be drawn upon by Your Town in the event that Developer, Inc., fails to complete steps a through H listed below for Windy road in or before (two years date of Final Plan).

Approximate length of road 2,350 feet:

A.	Grub roadways full width of 50 feet - \$4/ft.	\$9,400
B.	Shape Sub-base and grade it - \$4/ft.	9,400
C.	Install under drain culverts - \$16/Ft.	37,600
D.	Install sewer \$22/ft. x 2,050 plus pump \$16,500.	61,600
E.	Install water mains \$14/ft. x 2,400 ft.	33,600
F.	Apply and shape 18" gravel base \$8.30/ft. x 2,350 ft.	19,500
G.	Apply and shape 3" of crushed gravel; apply 1-3/4" of base course bituminous concrete to width of 24 ft., apply bituminous curb and 2" of bituminous concrete to a width of 5 ft., \$10/ft. x 2,350 feet,	23,500
H.	Apply 3/4" of surface bituminous concrete to width if 24 ft - \$5/ft.	11,800

Big Town Savings Bank understands that Developer, Inc., or the contractor, will notify the Town Engineer or Code Enforcement Officer before any if the above work has begun and obtain his approval in writing as he completes each phase of the road construction.

This account shall expire when Your Town acknowledges in writing to Developer, Inc., that the work outlined is Steps A through H has been completed in accordance with Your Town's Subdivision Regulations and Street Acceptance Ordinance, and the approved plans of Sunshine Estates. Any funds remaining in the account on (date specified above) for work outlined in Steps A through H which has not been completed and approved by the Town on that date shall be released to the Town to complete such work. As the Town Engineer or Code Enforcement Officer has issued his written approvals for each step above to Developer, Inc., the funds in this account will be released based upon the schedule above.

Drafts drawn upon this account must be for this particular Subdivision and to complete any work which is outlined above. Furthermore, drafts must be accompanied by itemized statements showing costs or work to be completed and must be submitted prior to (six to nine months following date specified above). Your Town shall not be responsible for repayment or interest cost for any funds released to the Town for work not completed on or before (date specified above).

Very truly yours,

Loan Officer

SEEN AND AGREED TO: _____
Developer, Inc.

to be performed.

Your Town

BY: _____
Town Manager

Appendix C

Model Application Form

Town of _____ Subdivision Application

Subdivision Name: _____

Application Number: _____

Applicant Information

1 Name of Property Owner: _____
Address: _____

2 Name of Applicant: _____
Address: _____
Telephone: _____

3 If applicant is a corporation, check if licensed in Maine: _____ yes _____ no
and attach a copy of State's Registration.

4 Name of applicant's authorized agent: _____
Address: _____
Telephone: _____

5 Name of Land Surveyor, Engineer, Architect or other preparing Plan: _____
Address: _____
Telephone: _____

6 Person and address to which all correspondence regarding this application should be sent to: _____

7 What legal interest does the applicant have in the property to be developed (ownership, option, purchase and sales contract etc.)? _____

8 What interest does the applicant have in any abutting property? _____

Land Information:

9 Location of Property (from County Registry of Deeds): Book _____ Page _____
(from Tax Maps): Map _____ Lot(s) _____.

10 Current zoning of property: _____

11 Is any portion of the property within 250 feet of the high water mark of a pond, river or salt water body? _____ Yes _____ No

12 Acreage to be developed: _____

13 Indicate the nature of any restrictive covenants to be placed in the deed: _____

14 Has this land been part of a prior approved Subdivision? _____ Yes _____ No
 or other divisions within the past five (5) years? _____ Yes _____ No

15 Identify existing use(s) of land. (farmland, woodlot, etc.)

16 Does the parcel include any waterbodies? _____ Yes _____ No

17 Is any portion of the property within a special flood hazard area as identified by the Federal
 Emergency Management Agency? _____ Yes _____ No

18 List below the names and mailing address of abutting property owners and owners across the road:
 Name: Address:

General Information:

19 Proposed name of development: _____

20 Number of lots or units: _____

21 Anticipated date for construction: _____

22 Anticipated date for completion: _____

23 Does this development require extension of public infrastructure?
 _____ Yes _____ No _____ other
 _____ roads _____ storm drainage
 _____ sidewalks _____ water lines
 _____ sewer lines _____ fire protection equipment

24 Estimated cost for infrastructure improvements: \$ _____

25 Identify method of water supply to the proposed development?
 _____ individual wells
 _____ central well with distribution lines
 _____ connection to public water system
 _____ other, please state alternative _____

26 Identify method of sewage disposal to the proposed development?
 _____ individual septic tanks
 _____ central on-site disposal with distribution lines
 _____ connection to public sewer system
 _____ other, please state alternative _____

27 Identify method of fire protection for the proposed development?
 _____ hydrants connected to public water system
 _____ dry hydrants located on an existing pond or water body
 _____ existing fire pond
 _____ other, please state alternative _____

28 Does the applicant propose to dedicate to the public any streets, recreation or common lands?
 If any:

Street(s)	_____	Yes	_____	No	Estimated Length	_____
Recreation area(s)	_____	Yes	_____	No	Estimated Acreage	_____
Common land(s)	_____	Yes	_____	No	Estimated Acreage	_____

29 Does the applicant intend to request waivers of any of the Subdivision submission requirements?
 If yes, list them and state reasons for the request.

To the best of my knowledge, all above stated information submitted in this application is true and correct.

 (Signature of applicant)

 (date)

**TOWN OF FAIRFIELD
TAX ACQUIRED PROPERTY ORDINANCE**

(1) TITLE: This Ordinance shall be known as The Town of Fairfield Tax Acquired Property Ordinance.

(2) AUTHORITY: This Ordinance is enacted pursuant to Title 30-A ss 3001, and Title 36, ss 941-943.

(3) PURPOSE: The purpose of this Ordinance is to provide the Town Council authority and guidance regarding properties acquired by the Town for non-payment of taxes, sewer bills, costs of abatement of dangerous buildings, or malfunctioning waste water disposal units.

(4) RETENTION OF PROPERTY: The Town Council may retain property for the benefit of the Town, if they deem it in the best interest of the Town to do so. By way of example, but not of limitation, the Town Council might deem it in the best interest of the Town to retain property where:

1) The property has or will have recreational value or economic value to the Town.

2) The property has or will have potential for a public facility or additions to public facilities.

3) Retention of the property will provide a residence for an individual or individuals who otherwise will require public assistance from the Town.

(4a) If the property is retained for public use, the Town Council may pursue an action for equitable relief in accordance with the provisions of Title 35 MRSA Section 946, as amended, as a means of securing clear title to the property.

(4b) The Town Council may cause the tax-acquired property retained for public use to be managed and insured as it would any other municipal property.

(5) REPURCHASE: If the Town Council determines that a property should not be retained under Section 4, that property, at the discretion of the Town Council, MAY be offered to the taxpayer(s) who lost the property. Also, at the sole discretion of the Town Council, this may include the taxpayers' heirs or successors. Upon the decision that the property may be repurchased, the taxpayer(s) must pay all outstanding debts to the Town, including, but not limited to, taxes, sewer, and personal property bills, interest and costs relating to these bills, the estimated taxes for the current municipal fiscal year if the conveyance is after April 1, and the amount of any taxes or other charges that would have been assessed had the property not become tax acquired.

(5a) The Treasurer shall notify the taxpayer(s) of their option to repurchase the property, by certified mail, return receipt requested, to their last known address. Full payment shall be required within 30 days of the date of the certified notice.

(5b) The Town will issue a Quitclaim Deed at the next regularly scheduled meeting following receipt of payment.

(6) SALE: If a property is not retained by the Town Council under Section 4, and if the property is not repurchased under Section 5, the property shall be sold by sealed bid or any other method approved by the Town Council which, in the sole judgment of the Town Council, maximizes the return to the Town. The Town Council reserves the right to accept or reject bids in any bid process. A notice of intent to sell the property shall be published in a local newspaper, and shall be posted in those areas where warrants are posted. The notice shall specify the time and date bids are due and the general terms of the bid.

(6a) Unless the Town Council stipulates otherwise, the minimum bid for any tax acquired property shall be the total of all outstanding taxes, Interest, and costs, including estimated taxes for the current year if the conveyance to the grantee is after April 1.

(6b) The Town Council shall have the authority to retain any part of a property for Town benefit and sell the remainder.

(6c) Any conveyance by the Town may be subject to such covenants or conditions as the Council may deem advisable.

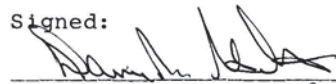
(6d) The Town Manager shall review all bids and make recommendations to the Town Council. The Town Council shall determine the successful bidder.

(6e) If the Town Council rejects all bids, the Council shall have the right to negotiate, at their option, with any of the bidders a mutually agreed upon buying price.

Dated: June 18, 1996.

Amended: October 1, 2008 ATTEST: Tracey L. Stevens, Town Clerk

Signed:



Dawnalyse Clifford



William H. Kogut

Paul J. Tessier

Fairfield Town Council

TAX ASSESSMENT ORDINANCE

SECTION 1 OFFICE OF SINGLE ASSESSOR ESTABLISHED

In accordance with the provisions of 30 M.R.S.A. §2060(5), the office of a single assessor is hereby established. The Town Council shall appoint the single assessor for a term of three (3) years. The necessary assistants to the assessor shall be appointed by the Town Council annually.

SECTION 2 BOARD OF ASSESSMENT REVIEW

A Board of Assessment Review consisting of five (5) members shall be appointed by the Town Council with the responsibility for arbitration of taxpayer appeals and authority to abate assessments in the light of said appeals. One member shall be appointed for one year, two members shall be appointed to serve for two years, and two members shall be appointed to serve for three years. Thereafter, all appointments shall be for a three year term. Vacancies due to death, resignation, or other cause shall be filled by Council appointment for the remainder of the unexpired term. One member shall be chosen annually by the membership as chairman of the Board of Assessment Review. Abatements shall require a minimum of 3 votes.

Effective March 17, 1986

WASTE DISPOSAL ORDINANCE

SECTION 1 PURPOSE

The purpose of this ordinance is to protect the public health and property values of the citizens of the Town of Fairfield by controlling the disposal of all discarded mater in such a manner as to prevent:

1. The pollution of air, land, or water resources of the town.
2. Littering and unsightliness around disposal areas.
3. The destruction of private wells.
4. Erosion.
5. The destruction of town roads by increased and/or heavy traffic.

SECTION 2 PROHIBITION

The operation of a disposal area in the Town of Fairfield for the disposal of any waste, unused materials, or discarded matter by any commercial, manufacturing or industrial organization, governmental or quasi-governmental agency except any town-owned disposal area without a permit from the Town Council is prohibited. This permit is not required by farms for waste generated directly from the raising of livestock, crops, or poultry.

SECTION 3 PERMIT APPLICATION AND PROCEDURES

The prospective operator and the owner of such a site must apply for this permit by writing a letter to the Town Council stating:

1. The weight and volume per day, week and year to be disposed of.
2. The consistency and chemical composition and origins of the material to be disposed of.
3. The location of the proposed disposal area.
4. Existing and planned final contours if excavation and fill are contemplated.
5. Plans to screen and reduce any unsightliness and to control access to the site for protection against accident and public harm.
6. The manner and frequency in which the material will be transported to the site.
7. The results of site surveys, engineering, evaluations and other studies supporting the project.

The Town Council may reduce the amount of information needed in the application for this permit, provided they determine, after a meeting with the

applicant, the information requested is not applicable to the particular permit. A public hearing must be held on all applications. The permit shall be granted, granted with conditions, or denied within 60 days of receipt of a properly completed application, or if additional information is necessary, within 60 days of receipt of the additional information.

SECTION 4 CRITERIA FOR GRANTING THE PERMIT

A permit shall be granted after public hearing provided the Town Council find that:

1. The soils, bedrock formation and ground contours are such that the ground water and surrounding surface waters will not be affected.
2. There are no toxic or pathagent materials to be disposed of;
3. There will be no open burning and, if the material is combustible, adequate fire control facilities shall be provided.
4. The site and entrance thereto are properly landscaped to screen, to the maximum extent possible, the disposal area from all surrounding property, and that entrance to the site is controlled to prevent accident and public harm if necessary.
5. Any excavation or open soil will be planned in such a manner as to minimize erosion and prevent sediment pollution or siltation of any ground or surface water in the town.

Obtaining this permit in no way relieves the applicant from the requirement to obtain other applicable Federal, State and local permits. The Town Council may issue this permit subject to any conditions necessary to ensure compliance with these criteria and the goals stated in Section 1. If, after investigation, the Town Council determines that the disposal area is not being operated in accordance with the criteria herein or conditions on the permit for the area, then the permit shall be cancelled and rendered null and void.

SECTION 5 EXISTING DISPOSAL SITES

Existing disposal sites covered by the ordinance must obtain a permit within 2 years of adoption of this ordinance by the town.

SECTION 6 CHANGES IN LOCATION, SIZE OR OPERATION

If the operation or location of any disposal area changes from that specified in the original permit application, an amendment to that permit must be obtained by the operator and the owner.

A public hearing on an amendment may or may not be held at the discretion of the Town Council.

SECTION 7 PENALTY

Any operator or owner who fails to obtain a permit, misrepresents information in the application, or fails to comply fully with conditions on the permit shall be individually liable to a fine of up to one thousand dollars (\$1,000.00) per day of each day of violation.

SECTION 8 PERMIT FEE AND TERM

Applications shall be accompanied by a non.-refundable fee of \$50.00 payable to the Town of Fairfield. In addition, the Town Council may assess reasonable additional costs relating to a specific application. The term of the permit shall be for one year from date of approval by the Town Council.

Permits are subject to termination at the discretion of the Town Council after 60 days upon written notice.

SECTION 9 SEPARABILITY

The invalidity of any provision of this ordinance shall not invalidate any other part.

SECTION 10 COMMENCEMENT

This ordinance shall become effective when enacted.

Public Hearing: December 2, 1980

Effective Date: December 16, 1980

TRUE COPY ATTEST: Agnes G. LaPlante