

2014

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ORDINANCE RELATING TO THE ACCEPTANCE OF NEW TOWN ROADS


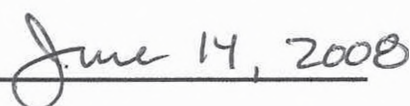
Approved March 1987 by Town Meeting

The Selectmen shall be prohibited from laying out a road for Town Meeting acceptance, pursuant to Title 30-A, Chapter 141 (formerly Chapter 303 of Title 23) of the Maine Revised Statutes, unless the road meets the following requirements:

1. A right-of-way four (4) rods in width shall be deeded to the inhabitants of the Town of Fayette; except that a fifty (50) foot right-of way shall be sufficient when, in the opinion of the Selectmen it is unlikely that the road will ever be accepted as a State-aid road.
2. An eighteen (18) foot wide travelled way with three (3) foot shoulders on both sides.
3. The area under the travelled way shall be stripped of all loam and top soli prior to placing a minimum of sixteen (16) inches of base gravel and four (4) inches of finished gravel which shall conform to State of Maine specifications. Finally, the travelled portion of the road shall be tarred or paved to Town specifications. The Selectmen shall have the authority to increase these requirements to the extent that the road conditions warrant.
4. Adequate ditches and culverts, as determined by the Selectmen.
5. The specifications of this ordinance constitute minimum requirements which may be increased by the Selectmen when the particular conditions of the road in question so warrant.
6. To a distance of twenty-five (25) feet from the road center on both sides, trees and brush must be cut to ground level, stumps, protruding rocks and other obstructions removed.
7. Such easements shall be granted to the Town by property owners adjoining the right-of-way as the Selectmen determine are required for proper drainage and slope.
8. Before the construction of a new road, or the reconstruction of an existing road, an engineer's plan, showing the specifications to which the road will be built, shall be submitted to the Selectmen for approval. This requirement may be waived by the selectmen, for an existing road, when the required reconstruction can be adequately described without such an engineer's plan.
9. The Selectmen shall be notified of, and given opportunity to inspect each stage of construction or reconstruction.
10. An adequate radius, as determined by the Selectmen, shall be provided at the junction of the new road and any existing public road.
11. The banks and ditches shall be seeded to prevent erosion.
12. An adequate turn-around area at the end of the new road shall be provided where necessary, as determined by the Selectmen.

Town of Fayette
Administrative Ordinance
Adopted
At the Annual Town Meeting
June 14, 2008
By the
Town Fayette

Certified Copy

Town Clerk

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Article I General Grant and Exercise of Powers

Section 1.01 Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII-A of the Maine Constitution and the provisions of Title 30-A MRSA Section 3001. The Town shall have all the powers possible for a municipality to have under the constitution and laws of Maine. The powers of the Town of Fayette under this ordinance shall be construed liberally in favor of the Town, and no mention of particular powers in the ordinances shall be construed to be exclusive or as limiting in any way the general power stated in this article.

The Town of Fayette may exercise any of its powers or perform any of its functions and may participate in the financing hereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies hereof, or of the United States or agencies hereof to the extent permitted by law.

Section 1.02 Purpose

The purpose of this ordinance is to provide guidance to the Board of Selectmen and the community for conducting municipal activities

Article II Board of Selectmen

Section 2.01 Composition, Terms and Eligibility

The Fayette Board of Selectmen shall be composed of five members, each of whom shall be elected by the registered voters of the entire town and will serve three—year staggered terms. At each regular municipal election, Board members shall be elected to fill those positions that have become vacant. Only qualified voters of the town shall be eligible to hold the office of Selectman. (Title 30-A MRSA Section 2526-3.) Selectmen shall maintain a place of principal residence in the Town of Fayette during their term of office.

Section 2.02 Compensation of the Board

Initially, upon approval of this ordinance, the annual compensation for each Selectman's services shall be the same as in the prior year's approved budget. Changes in the annual compensation for the Selectmen shall be established from time to time by Article in the Town Warrant at the regular town meeting.

1. Board members will be paid quarterly in the first warrant prepared after the close of the preceding quarter. Members serving unexpired terms shall be paid on a pro rata basis for time served.
2. Board members shall receive reimbursement for actual expenses incurred in the performance of their duties of office providing such expenses are pre approved by the Board of Selectmen.

Section 2.03 Induction and Organizational Meeting

The members of the newly constituted Board shall meet within 10 business days after July 1st-(the first regular meeting in the new fiscal year) and they shall organize to the extent possible as follows:

- a. To be sworn to the faithful discharge of their duties by the Town Clerk, Deputy Clerk, or if either of the preceding are not available, any person authorized by State Law to administer oaths.
- b. Elect a Board Chairman and Vice-Chairman.
- c. Elect a Secretary.
- d. Confirm and appoint town officials: Registrar of Voters, Town Clerk, Tax Collector, Town Treasurer, and any other town officials, review the status of members of standing boards as necessary, and confirm the appointments of existing members and to the extent possible appoint new members.
- e. Determine the rules by which meetings will be run either by adopting Roberts Rules of Order or some other such structure.

Section 2.04 Regular and Special Meetings

- a. The Board of Selectmen shall at its first meeting establish by resolution a regular place and time for holding its regular meetings, shall meet regularly at least twice a month and shall give notice hereof to the public in accordance with Maine law. It shall also provide a method for calling a special meeting. All meetings of the Board of Selectmen shall be open to the public. In the event of an emergency meeting, notice shall be made in accordance with the general laws of the State of Maine, and notice shall be posted for such emergency meetings in two conspicuous places whenever practical.
- b. The chairman, or vice-chairman in his absence, shall preside at meetings of the Board and shall be recognized as head of the town government for all ceremonial purposes and by the Governor for purposes of military law, but he shall have no regular administrative duties. The chairman shall exercise his vote in town affairs as a regular member of the Board. The chairman or vice-chairman

is also responsible for calling special meetings of the Board when such meetings are warranted.

c. Limitations of Board Action

The Board of Selectmen shall act as a unit settling all questions by formal vote in an authorized meeting. Members must not act individually unless some duty has been delegated to a member or members by a majority vote of the Board of Selectmen. A formal minority report may be issued by Board members in the minority, which shall be recorded in the minutes of the Board of Selectmen's meetings.

d. The Board of Selectmen may recess for the purpose of discussing in a closed or executive session any matter which is an allowable topic for executive sessions under the laws of Maine (Title 1 MRSA Section 405 [6]). No ordinances, orders, rules, resolutions, regulations, contracts, appointments, or other official actions shall be finally approved at executive sessions (Title 1 MRSA Section 405 [2]).

e. Recording of Meetings and Minutes

The Board of Selectmen shall provide for the recording of all meetings and make such recordings available to the public in a manner as easily accessible as possible. The journal shall be a public record.

The Town Clerk shall keep a written record of the meeting that shall include but not necessarily limited to a record of any formal votes taken. The record will show the complete language of the motion, who made the motion, who seconded the motion, and how each selectmen voted. The minutes will become a part of the community's record only after being voted on by the Board at a subsequent meeting

f. Voting

The votes of each member shall be recorded in the minutes if other than by unanimous vote. Three members of the Board shall constitute a quorum. No action of the Board shall be binding or valid unless adopted by affirmative vote of three Board members.

Section 2.05 General Powers and Duties of the Selectmen

The Board of Selectmen shall have the following specified powers, in addition to those powers granted to the Board at a regular or special Town Meeting and to those powers provided by law.

a. Supervisory authority over the affairs of the Town of Fayette.

b. Authority to appoint or to remove for cause, after notice and hearing, the Town Manager.

c. The Selectmen shall make appointments to all boards and commissions. The Selectmen also have the right to initiate boards or commissions as they deem necessary for town affairs.

d. Selectmen shall serve as Overseers of the Poor and Assessors of the Town. The Board of Selectmen may appoint as required an Assessor's Agent under contract or annual retainer.

e. The Board of Selectmen may review and evaluate applications for Town positions to insure capable and qualified candidates. All job openings shall be advertised in local publications and posted in the Town Office.

Section 2.06 Prohibitions and Bids

Selectmen shall not be employees of the town. Any Selectmen may bid to provide goods or services to the town. However any Selectmen bidding to provide goods or services shall not participate in discussion and/or voting on the award of such bid, in accordance with State laws and local ordinance.

Section 2.07 Vacancy or Forfeiture of Office

a. The office of any municipal official/officer shall become vacant upon non-acceptance, resignation, death, permanent disability, permanent incompetence, failure to qualify for the office within 10 days after written demand by the Board of Selectmen, forfeiture of office or failure of the municipality to elect a person to the office. Determination of permanent disability or permanent incompetence of any municipal official/officer shall be based upon competent medical opinion.

b. Forfeiture of Office

A municipal official/officer shall forfeit their office if they:

1. Lacks at any time during their time of office any qualification for the office prescribed by this ordinance or by law.
2. Intentionally violates any expressed prohibition of this ordinance.
3. Is convicted of a crime or offense which is reasonably related to their ability to serve as a municipal official.
4. fails to attend, without excusal, at least 50 percent of all applicable meetings in a 12 month period.

c. A record of attendance of Board members at all regular and special meetings shall be recorded in the meeting minutes.

d. If a seat on the Board of Selectmen becomes vacant more than 4 months prior to the next annual Town Meeting, the Board of Selectmen shall call a special election to fill the unexpired term. If such a vacancy occurs 4 months or less prior to the next annual Town Meeting, that seat shall be filled at that next annual Town Meeting.

Section 2.08 Recall of Selectmen

a. Any Selectman representing the Town of Fayette may be recalled and removed from office by the qualified voters of the Town of Fayette as herein provided.

b. 10 percent of the voters of the municipality voting in the last gubernatorial election may make and file with the Town Clerk a petition containing the name or names of the member or members whose removal is sought, and a general statement of the reasons why such removal is desired. The Town Clerk shall hereupon prepare petition blanks for such removal with a copy of said petition and general statement printed hereon or attached hereto, which shall contain the signature of said Town Clerk, the Town's official seal, which shall be dated, addressed to the Board of Selectmen, and contain the name or names of the person or persons whose removal is sought. The Town Clerk shall file said petition blanks and shall during office hours for the next 20 business days hereafter, keep the same open for signatures by qualified voters of the town. For the recall petition to be effective it must be signed by at least 20 percent of the registered voters of the town, and to every signature shall be added the place of residence of the signer giving the street and number or description sufficient to identify the place.

c. At the expiration of said 20 business days, the Town Clerk shall declare the petition closed and shall within 5 business days ascertain whether or not the petition is signed by the requisite number of voters and shall attach hereto his certificate showing the result of such examination.

d. If the petition shall be certified by the Town Clerk to be sufficient, he shall submit the same with his certificate to the Board of Selectmen at its meeting and shall notify the officer/s whose removal is sought of such action. The Board of Selectmen shall within five business days of the Town Clerk's certificate order an election to be held not less than 30 nor more than 40 calendar days hereafter, provided that, if a regular municipal election is to occur within 60 calendar days after the receipt of said certificate, the Board of Selectmen may, in its discretion, provide for the holding of the recall election on the date of such other municipal election. The vote on the article of recall shall be submitted to the voters as a referendum, and the provisions of this Ordinance concerning the conduct of

elections and a vote on referendum shall apply, except as those provisions are expressly modified by this section of the Ordinance concerning recall.

e. If a majority of the ballots cast concerning the article of recall approves the recall of an elected municipal official or officials, then such recall shall become effective on the day after the date of the vote; provided that the total number of votes cast for and against the article of recall equals or exceeds fifty percent (50%) of the total votes cast in the municipality in the last gubernatorial election.

In the event of a successful recall, the candidate (s) to succeed him for the balance of the unexpired term shall be determined at a second election following the procedure for a regular municipal election as outlined in Section 6.02.

f. Should the Board of Selectmen fail or refuse to order an election as herein provided, such election may be called by a Notary Public in the county on written petition of a number of voters equal to 10 percent of the number of votes cast in the town at the last gubernatorial election, but in no case less than ten. (Title 30—A MRSA Section 2521—4.)

Section 2.09 Investigations

The Board of Selectmen, or authorized committees, or commissions of its own members or of citizens appointed by the Board may, with good cause, make investigations into the affairs of the town and the conduct of any town department, office, or board.

Section 2.10 General and Administrative Ordinances

a. Ordinances

All ordinances shall be enacted by the registered voters of Fayette, acting through Town Meeting, ordinances shall become effective seven days after adoption unless otherwise specified herein.

b. Articles for the Warrant

The Board of Selectmen on their own initiative may by majority vote place on the warrant any article relating to the welfare of the municipality.

c. Petitions for Articles in the Warrant

Any qualified voter may request the Board of Selectmen to place an article in the warrant and shall present in written form the substance of the article. If the request is denied by the Board, on the written petition of a number of voters equal to at least 10% of the number of votes cast in the Town at the last

gubernatorial election, but in no case less than ten, the municipal officers shall either insert a particular article in the next warrant issued or shall within sixty days call a special town meeting for its consideration.

Section 2.11 Emergency Ordinances

Emergency ordinances affecting life, health, property, or the public peace may be introduced or adopted in accordance with the procedures for regular ordinances except that publication and notice of public hearing requirements may be omitted, providing the enacting clause of the emergency ordinance sets forth a statement of the emergency. The emergency ordinance may be adopted by a vote of the legislative body with or without amendment at the meeting at which it is introduced. Emergency ordinances so enacted shall be automatically repealed after the time specified in the ordinance but not later than the next regular or special Town Meeting.

Section 2.12 Authentication and Recording of Ordinances

All ordinances and resolutions adopted by the Board shall be authenticated by the signatures of the Chairman and the Secretary of the Board and recorded in full by the Town Clerk in a properly indexed book kept for that purpose. Such ordinances and resolutions shall be certified by the Town Clerk in accordance with Title 30-A MRSA Section 3006

Article III: Town Manager Plan

Section 3.01. Government. The town of Fayette adopted the Town Manager form of government pursuant to Maine State Statutes Title 30 Chapter 123 sub chapter 2631. The government of Fayette under her subchapter shall consist of a town meeting, an elected board of selectmen, an elected school committee, an appointed town manager and any other officials and employees that may be appointed under her subchapter, general law or ordinance. Other town officials may be elected by ballot, including, but not limited to, moderator, assessors, and overseers of the poor.

3.02 Duration. Once adopted, the town manager plan remains in effect until revoked at a town meeting held at least 90 days before the annual meeting unless the voters of the town adopt a charter.

PL 1987, Ch. 737, §A2, C106 (NEW).

PL 1989, Ch. 6, § (AMD).

PL 1989, Ch. 9, §2 (AMD).

PL 1989, Ch. 104, §C8, 10 (AMD).

3.03 Qualifications of town manager

a. Selection by board; professional qualification. The selectmen shall choose the town manager solely on the basis of executive and administrative qualifications with special reference to actual experience in, or knowledge of, the duties of office under her subchapter.

b. Residency. The town manager need not be a resident of the town or State when appointed, but, while in office, may reside outside the town only with the approval of the board of selectmen.

c. Prohibited offices. A town manager may not serve as moderator for Town Meetings, selectman, assessor or member of the school committee

3.04 Term, compensation, removal, suspension

a. Term. The town manager shall hold office for an indefinite term unless otherwise specified by contract.

b. Compensation. The selectmen shall determine the compensation of the town manager.

c. Removal, suspension. The selectmen may remove or suspend the town manager for cause in accordance with the following procedures.

1. The selectmen shall file a written preliminary resolution with the town clerk stating the specific reasons for the proposed removal. A copy of that resolution shall be delivered to the manager within 10 days of filing.
2. Within 20 days of receiving the resolution, the manager may reply in writing and request a public hearing.
3. Upon request for a public hearing, the selectmen shall hold one at least 10 days but not more than 30 days after the request is filed.
4. After the public hearing or at the expiration of the time permitted the manager to request the public hearing, if no such request is made, the selectmen may adopt or reject the resolution of removal.
5. The selectmen may suspend the manager from duty in the preliminary resolution, but the manager's salary may not be affected until the final resolution of removal has been adopted.

3.05. Absence or disability of town manager

The town manager may designate a qualified administrative official of the town to perform the manager's duties during a temporary absence or disability, subject to confirmation by the selectmen. If the town manager does not make such designation, the selectmen may appoint a town official to perform the manager's duties during the absence or disability and until the manager returns or the disability ceases.

3.06. Board of selectmen to act as a body; administrative service to be performed through town manager; committees

It is the intention of this subchapter that the board of selectmen as a body shall exercise all administrative and executive powers of the town except as provided in this subchapter. The board of selectmen shall deal with the administrative services solely through the town manager and shall not give orders to any subordinates of the manager, either publicly or privately. This section does not prevent the board of selectmen from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any official or department, or any matter relating to the welfare of the town

3.07. Powers and duties of town manager

- a. Executive and administrative officer. Is the chief executive and administrative official of the town.
- b. Administer offices. Is responsible to the selectmen for the administration of all departments and offices over which the selectmen have control;
- c. Execute laws and ordinances. Shall execute all laws and ordinances of the town;
- d. Department head. Shall serve in any office as the head of any department under the control of the selectmen when directed by the selectmen;

e. Appoint department heads. Shall appoint, subject to confirmation by the selectmen, supervise and control the heads of departments under the control of the selectmen when the department is not headed by the town manager under subsection 4;

f. Appoint town officials. Unless otherwise provided by town ordinance, shall appoint, supervise and control all town officials whom the municipal officers are required by law to appoint, except members of boards, commissions, committees and single assessors; and appoint, supervise and control all other officials, subordinates and assistants, except that the town manager may delegate her authority to a department head and report all appointments to the board of selectmen;

g. Purchasing agent. Shall act as purchasing agent for all departments, except the school department, provided that the town or the selectmen may require that all purchases greater than a designated amount must be submitted to sealed bid;

h. Attend meetings of selectmen. Shall attend all meetings of the board of selectmen, and the town manager may attend meetings when the manager's removal is being considered;

i. Make recommendations. Shall make recommendations to the board of selectmen for the more efficient operation of the town;

j. Attend town meetings. Shall attend all town meetings and hearings;

k. Inform of financial condition. Shall keep the board of selectmen and the residents of the town informed as to the town's financial condition;

l. Collect data. Shall collect data necessary to prepare the budget;

m. Assist residents. Shall assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices;

n. Remove appointments. Has exclusive authority to remove for cause, after notice and hearing (if the employee so requests), all persons whom the manager is authorized to appoint and report all removals to the board of selectmen.

ARTICLE IV: ADMINISTRATIVE ORGANIZATION

Part A: General Provisions

Section 4.01 - Appointment of Boards, Committees and Town Officials

The following Boards and Committees and Town Officials shall be appointed by a majority vote of the Board of Selectmen:

a. Planning Board, Board of Appeals, Budget Committee, and such other boards as may be required, where appointment is permitted by state or federal law or

municipal ordinance. The chairman of each board shall submit a written report of activities to the municipal officers to be included in the Annual Town Report.

b. Planning Board - shall consist of five (5) voting members with staggered 3-year terms; two (2) alternate members may be appointed. Voting members shall elect their chairman and secretary. Members who miss more than 3 consecutive meetings or more than 50% of meetings in a 3 month period may be dismissed by the Board of Selectmen. An alternate may only vote in the absence of a regular member. The Planning Board shall review the Comprehensive Plan biennially to assure that it meets current needs and requirements of the community, evaluate and prepare amendments for zoning and other land use ordinances, review subdivisions under Title 30-A MRSA Section 4401, and perform other duties as set forth in state statutes or duly enacted ordinances.

c. Board of Appeals - shall consist of five (5) voting members with staggered 3-year terms; two (2) alternate members may be appointed. Voting members shall elect their chairman and secretary. Members who miss more than 3 consecutive meetings or more than 50% of meetings in a 3 month period may be dismissed by the Board of Selectmen. An alternate may vote only in the absence of a regular member. The Board of Appeals shall have the power and authority set forth in Title 30-A MRSA Section 4351 and, in addition, any other powers or authority set forth in any zoning ordinance or other ordinances adopted by the legislative body of the town.

d. Budget Committee - shall consist of five (5) voting members appointed for staggered 3-year terms. Two (2) alternate members may be appointed. Voting members of the Budget Committee shall elect their chairman and secretary. An alternate may vote only in the absence of a regular member. Members who miss more than 3 consecutive meetings or more than 50% of meetings in a 3 month period may be dismissed by the Board of Selectmen. The committee will conduct its business in accordance with Title 30-A MRSA, Section , 401-410

e. Municipal Officers – Town Manager, Town Clerk, Town Treasurer and Road Commissioner. Each appointed official and Chairman of the Planning Board, Board of Appeals and Budget Committee shall submit a written report of activities to the municipal officers for inclusion in the Annual Town Report. These appointments shall be made during the first Board of Selectmen's meeting following the annual Town Meeting for 1-year terms. The Board may, where appropriate and where not prohibited by law, appoint the Town Manager to any of the foregoing positions.

In addition to these boards and committees the Board may establish other temporary committees for purposes it deems appropriate and not prohibited by state or federal law. The Board must establish a charge for each committee that sets forth the reason for its establishment, length of time it has to complete its work (not to exceed one year) and number of members.

Section 4.02 – Appointment of Town Officials

The following Town Officials shall be appointed by the Board of Selectmen and supervised by the Town Manager:

- a. Health Officer, Registrar of Voters, Plumbing Inspector, Code Enforcement Officer, Sexton, Animal Control Officer, Emergency Management Director, and such other officials as maybe required, where appointment is permitted by state law, federal law or municipal ordinance.
- b. The fire department officers, Fire Chief, Deputy Chief, and other department officers shall be elected by the department members and subject to the approval of the the Board of Selectmen and Town Manager.

Section 4.03 - Removal–Appointed Positions

For just cause after notice and opportunity for a hearing, and upon a majority vote of the Board of Selectmen, the Selectmen may dismiss any appointee of a board or commission appointed by the Selectmen. By majority vote, the Board of Selectmen may remove any individual employee or appointed official of the town for cause after notice and opportunity for a hearing. For the purposes of this ordinance just cause shall include failure to perform duties or attend meetings on a regular basis.

Section 4.04 - Elected Positions

The elected positions and compensation shall be determined at the Annual Town Meeting. Vacancies occurring during a regular term may be filled by appointment until the next Annual Town Meeting at the discretion of the Selectmen. Elected positions are as follows:

- a. A moderator to preside at the Annual Town Meeting shall be chosen by written ballot. Moderators for Special Meetings shall be chosen and elected at each Special Meeting by written ballot.
- b. The Fayette Central School shall be administered under the control of the Fayette School Committee. Five (5) School Committee members shall be elected for staggered 3-year terms. The chairman and Vice Chairman shall be elected at the Committee's first regular meeting after the Annual Town Meeting. The school fiscal year shall run from July 1 to June 30. The School Committee shall be governed by Title 20-A MRSA Sections 2301 through 2305, and by other pertinent provisions of law. The number of members on the School Committee may be changed by the legislative body of the town.

Part B - Personnel Administration for Town Employees

Section 4.05 - Equal Employment Opportunity Policy

- a. The Town of Fayette is an equal opportunity employer and as such will pursue a policy of non-discrimination in personnel practices, including hiring, opportunities for transfer and promotion, conditions or privileges of employment, as well as compensation and benefits. Such practices or procedures shall not favor or penalize any person because of race, creed, color, sex, marital status, national origin, age, or physical handicap, where these are not found to be bona fide occupational disqualifications.

The Town of Fayette recognizes its responsibility to enhance the purposes set forth in the Maine Human Rights Act as well as Federal statutes that may apply as a result of federal grant activities.

Section 4.06 - Personnel Policy

The Board of Selectmen shall develop, maintain and administer a complete and appropriate personnel policy for all town employees. In the event that an employee Appeals the Town Managers decision as part of the grievance procedures set forth in the Towns Personnel Policy Adopted by the Board on April 18, 2000 and as amended on May 12, 2003, the Board shall conduct a hearing in compliance with the requirements set forth in the aforementioned policy.

Article V FINANCIAL PROCEDURES

Part A- -Budget

Section 5.01 Fiscal Year

The fiscal year of the Town shall begin on the first day of July and end on the last day of June.

Section 5.02 Budget Committee (Pursuant to Title 30-A M.R.S.A., Section 3001)

The Committee shall consist of seven members who shall be appointed by municipal officers and shall be registered voters of the Town. No Other official or employee of the Town may be a member. Members shall serve for terms of three years, except that they shall continue in office until their successors are appointed. (for transition purposes, the initial terms shall be staggered so that as nearly an equal number of terms shall expire annually.) Vacancies shall be filled within 30 days by appointment of the municipal officers for the unexpired term.

Section 5.03 Officers; meetings quorum, procedure.

The committee shall annually elect a Chairman and a Secretary from amongst its members. The Chairman shall call meetings as necessary or when so requested by a majority of members or municipal officers. A quorum necessary to conduct business shall consist of at least a majority of members. The Chairman shall preside at all meetings. The Secretary shall maintain a record of all proceedings including all correspondence of the Committee. All meetings and records shall be subject to the Maine Freedom of Access Act, 1 M. R. S. A. Sections 401-410. The committee may adopt rules of procedure not inconsistent with this ordinance.

Section 5.04 Powers and duties; authority; recommendations; official cooperation

The committee shall have the following powers and duties:

- A. To review and make recommendations to the municipal officers on the upcoming annual operating budget as proposed by the town manager and school committee.
- B. To recommend capital improvement budgets for the town. Additionally the committee will monitor the physical condition of all town capital infrastructures including but not limited to roads, buildings and equipment. The Committee shall submit a budget for maintaining and improving the towns capital infrastructures on an annual basis to the Board of Selectmen and complete a five year plan (beginning in the year of enactment of this ordinance) for capital improvements to be included in the towns Comprehensive Plan.
- C. To review and make recommendations on supplemental appropriations and expenditures and other budgetary action whenever proposed by the municipal officers and/or town manager.
- D. To make such other recommendations on fiscal matters as it may from time to time deem advisable.

Section 5.05 Advisory Authority

The Committee's authority shall be advisory only. Any recommendation on a matter requiring town meeting action shall be printed with the article in the warrant and on the ballot, if any, along with such other recommendations as may be included by the municipal officers or required by law. The municipal officers, School Committee and town manager shall cooperate with and provide the Committee with such information as may be reasonably necessary and available to enable it to carry out its functions under this ordinance.

Section 5.06 Town Budget

The Town Budget shall provide a complete financial plan of all Town and Town Administration funds and activities for the ensuing fiscal year, and shall be in such form as the Town Manager deems desirable or the Board of Selectmen may require. In organizing the budget, the Town Manager shall utilize the most feasible combination of expenditure classifications by fund, organization unit, program, purpose or activities and object. The Budget shall show:

- a. All estimated income and all proposed expenditures for current operations during the ensuing fiscal year in detail by office, departments and agencies in terms of their respective work programs, and the method of financing such expenditures.
- b. Debt service, and proposed capital expenditures during the ensuing fiscal year detailed by offices, departments and agencies when practical, and the proposed method of financing such expenditures.
- c. Data arranged to show comparative budget figures for the estimated income and expenditures for the fiscal year in progress and the comparative actual income and expenditures for the most recently completed fiscal year.
- d. The best estimate of the anticipated change in Town Assessed Valuation from the prior year, as provided by the Assessor's Agent.

Section 5.07 School Budget

The School Committee shall provide a complete financial plan of all school funds and activities for the ensuing fiscal year. Data provided shall be by standard school account categories/classifications and shall contain the actual income and expenditures for the most recently completed fiscal year, the current budget for the fiscal year in progress, and the proposed income and expense budget for the ensuing fiscal year. The School Budget shall be prepared by the School Committee. The School Budget shall be reviewed and revised, in preparation for its inclusion in the Town Warrant and vote at the Annual Town Meeting, in accordance with Section 5.04 of this ordinance.

Section 5.08 Budget Submissions, Reviews, and Public Hearings

- a. No later than the first Selectmen's meeting in March, the Town Manager shall submit to the Board of Selectmen a budget for the ensuing fiscal year, and an accompanying message. The Town Manager's message shall explain the budget in fiscal terms, describe the more important features of the budget, indicate any major changes from the current year in expenditures and revenue together with the reasons for such changes, summarize the Town's debt position, and include

such other material as the Board of Selectmen deems desirable. The budget prepared by the Manager shall be reviewed by the Board of Selectmen, prior to a formal meeting with the Budget Committee.

b. The Selectmen and Town Manager shall meet with the Budget Committee for a formal review of the Town Budget in the month of March or sooner.

c. The School Committee and Superintendent shall meet with the Budget Committee for a formal review of the School Budget in the month of April or sooner.

d. The Town and School Budgets shall be reviewed at a Public hearing in May at a date to be determined by Board of Selectmen by April 30 or sooner each year.

Her hearing will enable both the Town officials and School officials to arrive at final budgets for inclusion in the Town Warrant to be voted upon at the Annual Town Meeting in June.

Section 5.09 Budget Follow-up

Following the close of the fiscal year and no later than October 31, the Town Manager and the School Superintendent respectively shall furnish to the Chairman of the Budget Committee a copy of the estimated income and proposed expenditures for the current year and the actual income and expenses for the previous year to facilitate the preparation and review of the next fiscal year's budget. The formats shall be the same as those described in Section 5.03 and 5.04.

Section 5.10 Public Records

a. Copies of the budget and the capital program as adopted by the Selectmen, School Committee, and Budget Committee shall be public record and shall be made available to the public in accordance with the Maine Freedom of Access Act, Title 1, Chapter 13, MRSA Sections 401-410

b. The Town Warrant shall contain the total budgeted expenditures for the previous year, together with (under each article requiring an appropriation) the recommendation for the ensuing fiscal year of the School Committee or Budget Committee (as appropriate) and of the Board of Selectmen.

Section 5.11 Budget Amendments after Adoption

a. Modifications of Appropriations

If at any time during the fiscal year it appears probable to the Town Manager that the revenues available will be insufficient to meet the amount appropriated, he

shall report to the Board of Selectmen without delay, indicating the estimated amount of the deficit, any remedial action taken by him, and Her recommendations as to any other steps to be taken. The Board of Selectmen shall then take any further action as it deems necessary to prevent or minimize any deficit.

b. Transfer of Appropriations

The Board of Selectmen may call a Special Town Meeting to consider and vote on the transfer of part or all of any unencumbered appropriations balance from one appropriation to another.

Section 5.12 Lapse of Appropriations

General fund appropriations, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that they have not been expended or encumbered, or except as prohibited by law or prior agreement, or unless the Town legislative body has granted specific authority to continue in force an appropriation for other than a capital expenditure. Lapsed funds shall be transferred to a surplus account. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned.

Section 5.13 Annual Post-Audit

The Board of Selectmen shall each year obtain the services of the Maine State Department of Audit or a qualified public account for the purpose of conducting the annual post-audit of the prior fiscal year municipal finances, as authorized by law.

Section 5.14 Review of Towns Finances

The selectmen shall review the town's finances on a regular basis their review will consist of the following:

1. The Treasurer shall provide monthly expense reports showing budgeted amounts per budget line item, current months activity, year to date activity and percentage of funds expended and received on a Year to date basis
2. The Treasurer shall prepare quarterly statements of income and expenses for the Board of Selectmen These reports will show budgeted amounts per budget line item, year to date activity and percentage of funds expended and received on a Year to date basis

Part B—Operating Procedures

Section 5.15 Preparation of Warrants

- a. The Treasurer will be responsible for preparation warrants for all municipal expenditures except for school expenses. The Superintendent of Schools will be responsible for preparing warrants for the School department
- b. The deadline for submission of bills and payroll is the Monday prior to submission to the next selectman's meeting for review.
- c. The Treasurer will complete preparation of the Warrant by noon on Friday.
- d. The school finance committee will review and sign the school warrants prior to submission to the Selectman for approval meeting.

Section 5.16 Payment of Town Real Property Taxes

- a. Tax bills for the total real property taxes due shall be issued no later 30 days prior to the due date established by this ordinance.
- b. One half (1/2) the total amount shall be due on November 1st and, one half (1/2) shall be due on April 1st of each year. If the due date falls on a day in which the Town office is closed the due date will be extended to the next regular business day during which the Town office is open.
- c. The total taxes due may be paid in full at the first billing if the taxpayer so desires.
- d. The Tax Collector may accept payment of taxes not yet committed as outlined in Title 36 M.R.S.A. Section 506
- e. A newsletter or postcard shall be mailed to the taxpayers 30 days prior to the second due date for real property taxes as a reminder of outstanding taxes due. The Town Meeting shall establish the amount of interest to be charged for delinquent tax payments.
- f. Taxpayers may pay real property taxes by installments so long as taxes paid meet the due dates of part b in this section

Section 5.17 Town Clerk's Fees

Pursuant to Title 30-A Section 2652, any and all fees which would normally accrue to the Town Clerk shall accrue directly to the Town of Fayette.

Section 5.18 Tax Anticipation Borrowing Guidelines

In the event that the Town of Fayette finds it necessary to borrow money in anticipation of taxes, the following guidelines shall be followed:

- a. Invitations to bid shall be extended to three or more banks at the same time;
- b. Invitations shall be dated and delivered to the invited banks on a timely basis prior to the bid opening and awarding of the bid;
- c. Invitation to bid shall specify the maximum amount to be borrowed;
- d. The method of borrowing shall be clearly defined; i.e., as needed or lump sum;
- e. Invitation shall specify planned maturity dates of said notes, and may require the option to prepay;
- f. Invitation shall show estimated planned borrowing and repayment schedule (Does not apply if borrowing is on a lump—sum basis.);
- g. Invitation shall state date, time and place bids are due, and shall indicate date bids will be opened and awarded;
- h. Invitation shall inform bidders of the Town's right to accept or reject any or all bids;
- i. Bidder shall be asked to submit interest rates in multiples of one-hundredth (1/100) of one percent (1%);
- j. The Town must specify the method in which interest shall be calculated; i.e., actual number of days outstanding over a 365— day period.

Section 5.19 Bid Procedure

In those cases where the scope of work or services to be performed for the Town or the School shall require an expenditure of \$5,000.00 or more, the following guidelines shall be followed:

- a. A clear statement defining the required scope of services or specifications of the work to be performed shall be provided to the potential bidders along with notice as to where the bid forms may be picked up.
- b. The manner of which the bids are to be submitted, when they shall be due in the town office, and when the bids are to be opened shall be clearly stated.

c. Requests for bids shall be advertised in the local papers. Such advertisements should include the statement that "the Selectmen reserve the right to accept or reject any or all bids."

Section 5.20 Purchasing Guidelines

a. The Town Manager has the final responsibility for all purchases for the town of Fayette with the exception of the School Department

b. Department heads are responsible for the following:

1. Practice economy in the use of materials;
2. To maintain equipment in serviceable condition;
3. To plan future purchases to provide ample time to secure favorable prices;
4. To ensure compliance by employees with purchasing regulations and procedures;
5. To assure that a sufficient unencumbered balance in the department's annual appropriation is available before a purchase is made;
6. To advise the Town Manager of supplies and services required for operations.
7. To advise the Town Manager of the existence of any surplus property appropriate for use by another department or for disposition in accordance with these guidelines.

Section 5.21 Purchase Orders Required

a. Purchase orders are required for all purchases. Purchases of not more than \$200 per transaction with any single vendor may be made by department heads and given to the Treasurer on a biweekly timeframe before warrants are due. Department heads are expected to investigate a local market and select the items best suited for their needs by both quality and price.

b. Purchases of more than \$200 shall require the authorization of the Town Manager, in advance.

c. Purchases of \$1000 or more shall require the prior approval of the Board of Selectmen.

Section 5.22 Invoices Required

The person making the purchase will ensure that the invoice is addressed to the Town of Fayette and that the vendor provides a legible and complete description of the item or service purchased on the invoice. A copy of the supplier's invoice, signed by the person making the purchase, will be delivered to the department

head. The department head shall verify, or cause to be verified, the receipt of the item(s) and ensure that the invoice reflects the department and activity for which the purchase was made by signing the invoice. Invoices shall be delivered to the Treasurer for payment.

Section 5.23 Purchase Orders.

- a. The Treasurer shall record all purchase order numbers assigned to each department. It shall be the responsibility of the department head, or other authorized employee, to prepare the purchase orders after selection of the vendor. The purchase order shall identify the item(s) or service(s) to be purchased, unit and extended prices, account number to be charged, shipping address, and the signature of the department head or other authorized employee.
- b. The purchase order original (white) is to be given to the vendor and as the vendor's authorization to ship the equipment, supplies or perform the services specified thereon. The second copy (pink) of the purchase order will be retained by the Treasurer. After final payment, the photocopy will be returned to the appropriate department; pink copy filed with the invoice and will be retained for records.
- c. The Town Manager shall review and initial all purchase orders.

Section 5.24 Exceptions

Invoices for the following items or services shall not require an approved purchase order for payment and must be initialed by the Town Manager.

- a. Utility bills.
- b. Expense reimbursement.
- c. Debt payments.
- d. Equipment lease or lease/purchase payments under an approved original lease or lease/purchase agreement. Identical recurring purchases such as uniform rental and cleaning services, except that the original contract must be authorized prior to any payments.
- e. Payments of agency revenues or fees to the State of Maine, or any other unit of government, or any other agency or escrow funds held by the Town.
- f. Payroll or payroll taxes, direct deposits, deductions, insurance premiums and other benefits, retirement contributions, or any other benefits or costs required as part of payroll processing.

Section 5.25 Notification of receipt of supplies or services

The department head will notify the Treasurer upon receiving supplies by signing the invoice and forwarding the signed bill and other documents accompanying the shipment to the Treasurer's Office.

Section 5.26 Partial Receipt of Shipment

If partial shipment of an order is received, the department head should note what remains to be received. The invoice or packing slip should also be noted that the order is incomplete and the Treasurer's Office should be notified.

Section 5.27 Inspection and Acceptance

The department head will be responsible for the inspection of supplies or services received. He will determine that the supplies or services are as specified and satisfactory before accepting same.

ARTICLE VI TOWN MEETINGS AND ELECTIONS

Section 6.01 Annual Town Meeting

The Annual Town Meeting held in Fayette will begin on the second Tuesday of June for the election of municipal officials and referendum issues and will conclude the following Saturday to vote on warrant articles for the towns financial appropriations and any other articles. Questions to be acted upon by referendum and the election of the municipal officers and municipal officials shall be voted on a day in June prior to the date of the floor vote for the Annual Town Meeting; on the day of the vote which is prior to the floor vote of the Annual Town Meeting, a Moderator shall be nominated, then elected by written ballot, and the Moderator shall continue to preside at the floor vote of the Annual Town Meeting. As the legislative body of the Town, the Town Meeting shall have general authority for the enactment of ordinances and other legislation by the Town.

Section 6.02 Election of Officials

The established current procedure for the election of officials shall be followed until or unless changed by popular vote at a Town Meeting. Current procedure is as follows:

a. The nomination for any elected office shall be made by nomination papers signed by not less than 25 nor more than 100 persons registered to vote in Fayette. Nominations papers shall be made available by the Town Clerk to prospective candidates during the 40 days prior to the final date of filing, and before issuance, the Town Clerk shall complete each sheet by filling in the name of the candidate, the title and term of office which is being sought. The

nomination papers will include a statement attested to by the candidate that requires the candidate to serve if elected.

b. Each voter who signs a nomination paper shall add her place of residence with the street and number, if any. Each voter may sign only as many nomination papers for each office as here are vacancies to be filled.

c. Notwithstanding the provisions of this subsection, where the municipal officers determine to fill a vacancy which must be filled by election, the municipal officers may designate a shorter time period for the availability of nominations papers but not less than 10 days prior to the final date for filing, and may designate a shorter time period for the final date for filing nominations papers but not less than the 14th day next to the day of election. Notice of her designation shall be posted, and local representatives of the media shall be notified of the designation.

d. The names of candidates nominated and the office for which they are nominated shall be attested by the Clerk and posted at least 7 days prior to Town Meeting.

e. Order of Candidates' Surnames

Where two or more candidates have been nominated for any office, the names of such candidates shall appear on the ballot in alphabetical order by surname.

f. Absentee ballots will be made available and will be accepted for election of officers and referendum issues on the second Tuesday of June. However, absentee ballots are neither available nor accepted for warrant articles to be voted on at the continuation of town meeting on the following Saturday.

g. All warrant article and ballot referenda language will be approved by the Selectmen with the exception of prepared petitions pursuant to Title 21-a MRSA

h. Determination of Election Results

1. Number of votes:

Every voter shall be entitled to vote for as many candidates as here are vacancies to be filled.

2. Plurality:

Election shall be determined by plurality vote. In case of a tie, a run-off election of those who tied shall be held within ten (10) days of a notice hereof in a newspaper of general circulation in the Town

3. Write-in Candidates:

A write-in candidate shall be elected by plurality vote, provided that such write-in candidate shall receive a minimum of five (5) votes. Any write-in candidate receiving fewer than five votes shall not be considered elected.

h. Ballots for Ordinances

An ordinance to be voted on by secret ballot shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title but shall be a clear, concise statement describing the substance of the measure without argument of prejudice.

i. Voting Machines

The Board of Selectmen may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with the law.

j. Conformity with State Law

To the extent that provisions concerning elections are not otherwise set forth in her ordinance, provisions relating to elections shall conform with the requirements of Title 30-A MRSA Section 2528.

Section 6.03 Special Town Meetings

Special Town Meetings may be called by order of the Selectmen or by citizen's petition to the Selectmen signed by 10 percent of the voters of the municipality voting in the last gubernatorial election filed with the Town Clerk. The petition must contain a general statement of the reasons why such a meeting is necessary and specific language for warrant articles to be voted on, in accordance with the provisions of Title 30-A MRSA Section 2521 (4).

ARTICLE VII GENERAL PROVISIONS

Section 7.01 Initiative and Referendum

a. Definition

Initiative guarantees the right by which citizens can propose a law by petition and ensure its submission to the electorate.

Referendum is the actual submission of a proposed public measure or statute to a direct popular vote. (Title 30-A MRSA Sections 2521 and 2522.)

b. Procedure

The details of procedure by which both of these rights are fulfilled are described in Title 21-A MRSA Section 901. Nothing in this Ordinance shall be construed to diminish the rights granted by law.

Section 7.02 Ordinance Amendments

Amendments to the ordinance, which may be appropriate due to changed circumstances, may be initiated either by the municipal officers, or by the voters of the Town at a town meeting, pursuant to Title 30—A MRSA Sections 2104 and 2105

Section 7.03 Elected or Appointed Officials: Terms

The term of any elected or appointed official shall begin the first day of July unless the official is elected at a special election. For officials elected at a special election their term will begin as soon as they take the oath of office. The term of any appointed official shall begin as soon as they take the oath of office. Any official shall serve for their prescribed term or until a successor is elected or appointed or duly sworn as long as they are a resident of Fayette.

Section 7.04 Swearing in of Officials

Every town official shall be sworn to the faithful discharge of the duties incumbent upon him according to the Constitution and laws of the State of Maine and ordinances of the Town and shall be sworn to support the Constitution of the United States and the Constitution of the State of Maine.

Section 7.05 Personal Financial Interest

a. Any official of the Town who has a financial interest, direct or indirect, as defined in Title 30-A 2605 (4) in any contract with the Town, or in the sale of any land, material, supplies, or services to the Town or to a contractor supplying the Town, shall make known that interest and shall refrain from voting upon or otherwise participating in their capacity as an official, officer or in any other capacity concerning the negotiation or award of a contract or any other matters with reference to such a contractor. The official's disclosure and notice of abstention from taking part in a decision in which such official has an interest shall be recorded with the Town Clerk.

b. Any contract, sale, or other transaction which is negotiated or issued in violation of Section 7.05 a. shall be voidable.

Section 7.06 Prohibitions

a. Activities Prohibited

1. No person shall be favored or discriminated against with respect to any town position or appointive town administrative office because of the following: age, race, color, sex, marital status, political or religious opinions or affiliations, ancestry or national origin, or physical mental handicap, in accordance with Title 5 MRSA Section 4552.

2. No person shall willfully make any false statement, certificate, mark, rating, or report in regard to any test certification or appointment under the personnel provisions of this Ordinance or rules and regulations made here under, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

3. No person shall directly or indirectly give, render, pay, offer, solicit, or accept any money, service or other valuable consideration for any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the municipal service.

4. Nothing herein contained shall affect the right of any person to hold membership in, and support a political party, to vote as they choose, to express privately and publicly their opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings.

b. Sanctions

If any person employed by the Town of Fayette should be found to have violated any provision of Section 7.06 (a) by the appointing body, may be removed for cause or reprimanded as deemed necessary by the appointing body after proper notice and hearing.

Section 7.07 Separability

If any provision of this Ordinance is held invalid, the other provisions of the Ordinance shall not be affected hereby. If an application of the Ordinance or any of its provisions to any person or circumstance is held invalid, the application of the Ordinance and its provisions to other persons or circumstances shall not be affected hereby.

Section 7.08 Gender Neutral

Wherever required by the context in this Ordinance, the use of the masculine shall include the feminine, the feminine shall include the masculine, and the use of the singular and the plural shall be interchangeable.

ARTICLE VIII TRANSITIONAL PROVISIONS

Section 8.01 Effective Date

After adoption of this Ordinance by the Registered Voters of Fayette, this Ordinance shall become effective immediately. (Title 30-A MRSA Section 2105 [4] [A]).

Section 8.02 Board of Selectmen

All members serving on the Board at the effective date of this Ordinance shall continue to hold office as prescribed when elected.

Section 8.03 Temporary Ordinances

All existing codes, ordinances, and policies will remain in effect until altered, amended, or rescinded except where these codes, ordinances, and policies are inconsistent with this Ordinance.

Section 8.04 Officials, Employees, and Board Members

a. Continuance of Office

1. All established boards and committees not inconsistent with this Ordinance shall continue in effect until changed by action of the Board of Selectmen, and the incumbent members shall serve their appointed terms or until replaced.

Section 8.05 Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Ordinance and in each case shall be maintained, carried on or dealt with by the town department, office or agency appropriate under her Ordinance.

Section 8.06 State and Municipal Laws

All town ordinances, resolutions, orders and regulations which are in force when this Ordinance becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Ordinance or of ordinances or resolutions adopted pursuant hereto. To the extent that the Constitution and laws of the State of Maine permit, all laws relating to or affecting her town or its agencies, officials or employees which are in force when her Ordinance becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of her Ordinance or of ordinances or resolutions adopted pursuant hereto.

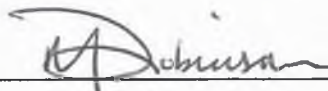
FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF FAYETTE, MAINE

ENACTED: June 11, 2011
Date

EFFECTIVE: June 16, 2011
Date

CERTIFIED BY: 
Signature

CERTIFIED BY: Mark Robinson
Print Name

Town Manager
Title

Affix Seal

Town of Fayette

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I - PURPOSE AND ESTABLISHMENT

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

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

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Fayette 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 Fayette, Maine.

The areas of special flood hazard, Zones A and AE for Town of Fayette, Kennebec County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Kennebec County" dated _____, 2010 with accompanying "Flood Insurance Rate Map" dated _____, 2010 with panels:

280, 285, 290, 291, 292, 293, 294

derived from the county wide digital flood insurance rate map entitled "Digital Flood Insurance Rate Map, Kennebec County," are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

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

ARTICLE III - APPLICATION FOR PERMIT

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

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;

- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

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

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones AE, from data contained in the "Flood Insurance Study – Kennebec County, Maine" as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and VIII.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;

- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form 81-65, 03/09, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 - 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 - 3. a certified statement that bridges will meet the standards of Article VI.M.;
 - 4. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$50 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 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood and floodway data contained in the "Flood Insurance Study – Kennebec County, Maine," as described in Article I;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway

data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,

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

Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

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

A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and,
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. Sanitary Sewage Systems - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. On Site Waste Disposal Systems - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. Watercourse Carrying Capacity - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. Residential - New construction or substantial improvement of any residential structure located within:

1. Zones 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. Zones 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 floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D., or
 - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1:

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

1. Zones 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 additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.
2. Zone A shall:

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

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and 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 A and AE, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

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

K. Floodways -

- 1. In Zones 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 Digital Flood Insurance Rate Map, Kennebec County 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 designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones 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 crawlspace may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIII;
2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. **Bridges** - New construction or substantial improvement of any bridge in Zones AE and A shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones 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 the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones 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 the construction.

ARTICLE VII - CERTIFICATE OF COMPLIANCE

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

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

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

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

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

ARTICLE IX - APPEALS AND VARIANCES

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

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

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,
 - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 - 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - 1. other criteria of Article IX and Article VI.K. are met; and,
 - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 - 1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
 - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
2. such construction below the base flood level increases risks to life and property; and,
3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

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

ARTICLE X - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

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

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIII - DEFINITIONS

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

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

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

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

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

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

Building - see **Structure**.

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

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

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

Elevated Building - means a non-basement building

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

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

Elevation Certificate - An official form (FEMA Form 81-31, 03/09, as amended) that:

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

Flood or Flooding - means:

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

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

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

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

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

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

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

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

Floodway - see **Regulatory Floodway**.

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

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

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

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved state program as determined by the Secretary of the Interior, or
 - 2. Directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

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

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

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

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

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

Recreational Vehicle - means a vehicle which is:

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

Regulatory Floodway -

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

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

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

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

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

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

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

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

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

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

ARTICLE XIV - ABROGATION

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

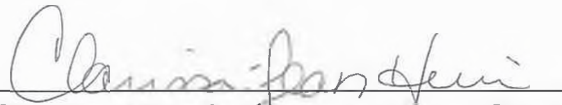
60.3 (c) Rev. 4/09

Prepared by SPO/slb_1/05/2010

TOWN OF FAYETTE

LAND USE ORDINANCE

Amended as of
JUNE 14, 2014

Attestation: 
Clarissa Herrin, Deputy Town Clerk

MARK ROBINSON
Notary Public, State of Maine
My Commission Expires 10/28/2017

NOTE: Words appearing in italics are defined in Article 9, Definitions

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ARTICLE I - GENERAL PROVISIONS

SECTION 1. TITLE

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

SECTION 2. AUTHORITY

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

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

SECTION 3. PURPOSES

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

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

C. To protect our rural character;

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

E. To anticipate impacts of *development*, and

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

SECTION 4. APPLICABILITY

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

SECTION 5. EFFECTIVE DATE

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

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

SECTION 6. AVAILABILITY

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

SECTION 7. SEVERABILITY

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

SECTION 8. CONFLICTS WITH OTHER ORDINANCES

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

SECTION 9. AMENDMENTS

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

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

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

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

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

ARTICLE 2 - NON-CONFORMANCE

SECTION 1. PURPOSE

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

SECTION 2 GENERAL

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

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

SECTION 3. LEGAL NON-CONFORMING STRUCTURES

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

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

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

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

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

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

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

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

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

B. Special Expansion Allowance:

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

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

b. A well-distributed stand of trees and other natural vegetation as defined in Article 8 Section 15(B)(2), below, extends at least 50 feet, horizontal distance, in depth as measured

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

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

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

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

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

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

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

3. Filing and Reporting Requirements: Written plans required pursuant to this section must be filed with the Kennebec County Registry of Deeds. A copy of all permits issued pursuant to

this section must be forwarded by the Town to the Department of Environmental Protection within 14 days of the issuance of the permit.

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

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

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

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

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

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

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

D. Reconstruction or Replacement: Any legal non-conforming structure which is located less than the required *setback* from a water body, tributary stream, or wetland and which is damaged or destroyed, regardless of the cause, and which damage or destruction reduces the *market value* of the structure by more than 50% may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage or destruction, and provided that such

reconstruction or replacement is in compliance with the waterbody, tributary stream or wetland *setback* requirement to the *greatest practical extent* as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

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

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

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

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

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

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

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

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

SECTION 4. NON-CONFORMING USES

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

B. RESUMPTION PROHIBITED. A lot, building or structure in or on which a *non-conforming use* is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a *non-conforming use* except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure if the structure has been used or maintained for residential purposes during the preceding five (5) year period.

C. CHANGE OF USE. An existing *non-conforming use* may be changed to another

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

SECTION 5. NON-CONFORMING LOTS

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

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

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

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

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

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

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

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

ARTICLE 3 - ADMINISTRATION AND ENFORCEMENT

SECTION 1. CODE ENFORCEMENT OFFICER

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

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

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

SECTION 2. PLANNING BOARD

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

B. The Planning Board shall be appointed by the *Select Board* and shall consist of 5 members and four alternate members, all of whom shall be legal residents of the Town, serving staggered terms of one, two and three year terms. The Board shall annually elect a Chair from its members, and may appoint a secretary from outside the Board, who will be compensated at a predetermined rate for duties performed. The Secretary shall keep the minutes of each meeting which shall show the vote of each member upon each question. All meetings shall be recorded, and copies of the

recordings shall be made available to the public at reasonable cost. All minutes of the Board shall be public information and a copy of each meeting shall be filed at the Town office within 10 days of the approval of the minutes. A quorum of the Board must be present in order to hold a meeting. A quorum shall be at least 3 members. A vote shall be carried by a simple majority of the members present at an approved meeting.

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. BOARD OF APPEALS

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

B. The Board of Appeals shall be appointed by the *Select Board* and shall consist of 5 members and 2 alternate members, all of whom shall be legal residents of the Town, serving

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

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

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

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

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

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

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

c. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by the *Code Enforcement Officer* or the Planning Board in the administration of this Ordinance. An appeal regarding the *Code Enforcement Officer* shall be heard *de novo*. An appeal regarding the Planning Board shall be decided on the record created before the Planning board.

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

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

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

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

C. VARIANCE APPEALS

1. A variance may be permitted only under the following conditions: A variance may be granted only from *dimensional requirements* including but not limited to lot width and frontage,

structure height, percentage of lot coverage and *setback* requirement.

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

3. The Board shall not grant a variance unless it finds that strict application of the terms in this Ordinance will result in undue hardship, and that the proposed structure or use would meet the performance standards contained in this Ordinance except for the specific provisions which have created the non-conformity and from which relief is sought.

4. For areas in the Protected Districts, a copy of each variance request, including the application and all supporting information supplied by the applicant shall be forwarded by the municipal officers to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Appeals Board.

D. THE TERM "UNDUE HARDSHIP" SHALL MEAN:

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

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

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

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

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

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

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

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

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

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

6. This ordinance is strictly limited to permitting a variance from a set-back requirement for a single-family dwelling that is the primary year-round residence of the applicant. A variance may not exceed 20% of a set-back requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. A variance may exceed 20% of a set-back requirement, except for minimum setbacks from a wetland or water body required within shoreland zones, if the applicant has obtained written consent of an affected abutting landowner.

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

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

insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any condition imposed. A copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

G. In addition to the "Undue Hardship Variance", the Board of Appeals may grant a variance to the owner of a dwelling for the purpose of making that dwelling accessible to a *person(s)* with a *disability* who is living in or regularly accesses the dwelling. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the *person* with the *disability*. The board may impose conditions on the variance, including limiting the variance to the duration of the *disability* or to the time that the *person* with the *disability* lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railings, walls or roofs necessary for the safety or effectiveness of the structure.

H. MAKING AN APPEAL

1. An administrative or variance appeal may be taken to the Board of Appeals by an *aggrieved party* from any decision made, or from any failure to act by the *Code Enforcement Officer* or the Planning Board. Such appeal shall be taken within 30 days of the date of the decision appealed from or within a reasonable time after failure to act, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the 30 day requirement. The Board of Appeals shall hold a *public hearing* on all administrative and variance appeals.

2. The applicant shall have the burden of proof and shall file on the form provided by the Board a written notice of appeal which shall include:

(a) A concise written statement indicating what relief is requested and why it should be granted.

(b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

3. The Planning Board and/or the *Code Enforcement Officer* shall transmit both to the applicant and the Board of Appeals all of the documents constituting the record from which the appeal was made. This includes the following documents which shall be submitted to the applicant and the Appeals Board members by the *Code Enforcement Officer* for their review at least one week prior to any hearing: the appellant's application, the application to the Planning Board or *Code Enforcement Officer*, any permits received, the decision in question, the minutes of the Planning Board or *Code Enforcement Officer* meeting(s), *Code Enforcement Officer's* notes, and any other document(s) related to the decision being appealed.

4. The majority of the Board shall constitute a quorum for the purposes of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

5. The concurring vote of the majority of the members of the Board of appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the *Code Enforcement Officer* or Planning Board, or to decide in favor of the applicant on any matter in which it is required to decide under this Ordinance, or to effect any variation in the application of this Ordinance from its stated terms. The Board may reverse the decision, or failure to act, of the *Code Enforcement Officer* or Planning Board only upon a finding that the decision, or failure to act,

was clearly contrary to specific provisions of this ordinance.

6. The Board of Appeals shall decide all appeals within 45 days after the close of the hearing, and shall issue a written decision on all appeals. The decision shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or bases thereof, and the appropriate order, relief or denial thereof. All meetings shall be recorded and copies of the recordings shall be available to the public at reasonable cost.

7. The Board of Appeals may reconsider any decision within thirty (30) days of its prior decision. The Board may conduct additional hearings and, with regard to appeals from the *Code Enforcement Officer's* decision or failure to act, receive additional evidence and testimony.

I. Any *aggrieved party* who participates as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State Laws within thirty (30) days from the date of any decision of the Board of Appeals.

SECTION 4. PUBLIC HEARING REQUIREMENTS

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

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

B. A notice shall be mailed by first class mail to the applicant and *abutters* in order to notify them of the date, time, place and purpose of the *public hearing*. Only those abutters having property lines within two hundred fifty (250) feet of the proposed project site shall be notified. The Planning Board or the Board of Appeals shall maintain a list of all *persons* notified. Failure to receive the notice shall not invalidate the *public hearing*.

SECTION 5. ENFORCEMENT

A. Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

B. *Code Enforcement Officer*

1. It shall be the duty of the *Code Enforcement Officer* to enforce the provisions of this Ordinance. If the *Code Enforcement Officer* shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the *person* responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of each such notice shall be submitted to the municipal officers and be maintained as a permanent record.

2. The *Code Enforcement Officer* or designee may conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The *Code Enforcement Officer* shall investigate all complaints of alleged violations of this Ordinance.

3. The *Code Enforcement Officer* shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

C. Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the *Code Enforcement Officer*, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage. The Planning Board shall be kept informed of all steps involved in enforcement proceedings.

D. Fines. Any *person*, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A M.R.S.A. Section 4452.

ARTICLE 4 - BUILDING PERMIT REQUIREMENTS

SECTION 1. BUILDING PERMITS REQUIRED

A. After meeting the appropriate review requirements established by this Ordinance, permits shall be obtained from the *Code Enforcement Officer* and/or, if necessary, by the Licensed Plumbing Inspector for the following:

1. The construction, erection, improvement, addition, enlargement, alteration, demolition, or movement of any building or structure. All dimensional and requirements 2-9 must be met.
2. Installation or construction of a dwelling unit, mobile home or manufactured home.
3. Expansion of a *non-conforming use* or structure.
4. *Mineral extraction* activities.
5. Change of use to one that is allowed in a particular district.
6. For a new or expanded land use activity as listed in the Land Use Table.
7. The installation of internal plumbing or subsurface wastewater disposal systems.
8. Conversion of a seasonal residence into a year round residence. (Title 22 *MRSA* Art. 42, October 1, 2002)
9. *Road /driveway* entrance and culvert installation.

B. A *person* who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

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

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

SECTION 2. BUILDING PERMITS NOT REQUIRED

A. Permits are not required for the following:

1. For an allowed land use activity as indicated in the Land Use Table.

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

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

A building notification form as provided by the town must be submitted to the office **prior to** construction. Once the building notification has been submitted the construction may begin provided all provisions of the Fayette land use ordinance can be met.

All setbacks and dimensional requirements as set forth in article 7 – land use districts, section 6-a-table of dimensional requirements, shall be met for the zone in which the structure is located. Where there are two zones present, the stricter requirement applies. It shall be the responsibility of the person(s) filing the building notification to acquire any and all required state and federal permits (i.e. Permit-by-rules, plumbing permits, etc.).

B. The building shall not be utilized for residential or commercial uses other than for agricultural uses as defined in the Fayette land use ordinance.

Failure to file a building notification will result in fines as follows:

A. First offense- \$50.00.

B. Second offense- \$200.00

C. Third offense- \$500.00

D. Fines for subsequent violations will be determined by the Board of Selectmen and **may** require a consent agreement and forfeiture of the privilege to file a building notification. Fines not to exceed state law 30-a M.R.S.A., section 4452, however, the board of selectmen may require any violator(s) to pay for legal fees and expenses incurred for enforcement action taken against them.

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

1. The replacement culvert is not more than 25% longer than the culvert being replaced.

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

C. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate, timely, temporary and permanent stabilization measures.

SECTION 3. PLUMBING PERMIT REQUIRED

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

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

SECTION 4. EXPIRATION OF A BUILDING PERMIT

Permits shall expire one year from the date of issuance if a substantial start (30% completion) is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

SECTION 5. BUILDING PERMIT FEES

A. Building Permit fees shall be established by the *Select Board* from time to time and a list of fees shall be available at the Town Office.

B. All building permit fees shall be paid upon submission of the permit application and shall be non-refundable. Fees shall be made payable to the Town of Fayette.

C. A double fee shall be charged for any application which is submitted after the proposed use or construction has been initiated. This shall be in addition to any fines or actions or Ordinance violations.

SECTION 6. GENERAL PERMIT REQUIREMENTS

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

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

C. Whenever possible, the applicant shall submit with the application a list of the names and addresses of all *Abutters*. A notice to all abutters shall be mailed by the Town Office to notify them of the date, time, place and purpose of the *public hearing*. Only those abutters having property

lines within two hundred fifty (250) feet of the proposed project site shall be notified.

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

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

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

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

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

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

SECTION 7. CERTIFICATE OF OCCUPANCY

No new structure may be occupied without a Certificate of Occupancy issued by the *Code Enforcement Officer*. The *Code Enforcement Officer* shall inspect the structure to determine if it complies with all applicable requirements of this Ordinance.

ARTICLE 5. PERMIT REVIEW REQUIREMENTS

SECTION 1. PURPOSE

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

B. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the a Protected District unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

SECTION 2. PLUMBING AND SUBSURFACE WASTEWATER DISPOSAL

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

B. A dwelling being converted from a seasonal to a year-round residence may require the installation of a new, or enhancement of an existing, subsurface waste disposal system. A seasonal

conversion permit shall not be approved if a holding tank is used as a means of wastewater storage or disposal. (Title 30-A *MRSA* Section 4215, subsection 2.)

SECTION 3. ALLOWED USES

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

SECTION 4. CODE ENFORCEMENT OFFICER PERMIT REVIEW

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

SECTION 5. PLANNING BOARD REVIEW

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

SECTION 6. SELECT BOARD REVIEW

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

SECTION 7. LICENSED PLUMBING INSPECTOR REVIEW

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

ARTICLE 6. BUILDING PERMIT REVIEW PROCEDURES AND STANDARDS

SECTION 1. PURPOSE

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

SECTION 2. REVIEW CRITERIA

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

- A. The application is complete and the applicable permit fee has been paid.

- B. The proposal conforms to all applicable provisions of this Ordinance.
- C. The proposal will not result in water pollution, erosion, or sedimentation to surface waters.
- D. All wastewater will be properly disposed of by the use of an approved treatment method.
- E. The proposal will not have an adverse impact upon spawning grounds, fish, aquatic life, bird or other wildlife.
- F. The proposal will conserve shore cover, vegetation and visual quality, as well as actual points of access to inland waters.
- G. Archeological and historic resources as designated in the comprehensive plan will be protected.
- H. The proposal will avoid problems associated with floodplain *development* and use.
- I. The proposal will maintain safe and healthful conditions.
- J. The proposed use will be established and maintained in accordance with an approved erosion and sediment control plan.
- K. Access to the site from existing or proposed *roads* is safe and adequate.
- L. The proposed use will not cause or aggravate undue traffic conditions.
- M. The proposed use will have adequate water supplies to meet the demands of the proposed use and for fire protection.
- N. The proposed use will provide for adequate management of storm water runoff without adverse impact on the site, adjacent land, or water bodies.
- O. The proposed use will not decrease the quality, or significantly decrease the quantity, of groundwater.
- P. The proposed site design provides adequate buffer space and on-site drainage and landscaping to protect neighboring property from detrimental factors of the proposed *development*.

SECTION 3. SITE INSPECTION

A. The *Code Enforcement Officer*, the Planning Board and/or the Appeals Board may conduct an on-site inspection of the proposed project site in order to obtain knowledge about the site and the surrounding area.

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

SECTION 4. CONDITIONS

A. Upon consideration of the appropriate review criteria, the *Code Enforcement Officer*, the Planning Board or the Appeals Board may attach conditions to the requested permit if it finds it necessary to further the purposes of this Ordinance

B. In determining whether conditions are appropriate or necessary, the Planning Board, the *Code Enforcement Officer* and/or the Appeals Board shall consider the unique features of the site, off-site impacts, the surrounding area, the proposed use, and the proposed structure. A written finding of fact shall be created stating that unique features are found to exist and suitable conditions can be imposed that will allow the proposal to meet the purposes of this Ordinance. The conditions shall be listed on the permit and shall be made enforceable under this Ordinance.

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

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

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

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

SECTION 5. CODE ENFORCEMENT OFFICER PERMIT REVIEW

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

B. Application Procedure:

1. Within fourteen (14) days of receiving a permit application, or additional requested information or material, the *Code Enforcement Officer* shall determine if the application is complete and shall notify the applicant in writing that the application is complete, or if the application is not complete, the specific additional materials that are needed to make the application complete.

2. Within fourteen (14) days of determining that the application is complete, the *Code Enforcement Officer* shall render a final decision to approve or to deny the permit application. The final decision shall be based on whether or not the application meets the requirements of this Ordinance. The final decision shall be issued in writing to the applicant. If the application is approved, the *Code Enforcement Officer* shall issue the permit within seven (7) days.

3. The *Code Enforcement Officer* also serves as consultant to and as designee for the Planning Board in situations requiring Planning Board review. He/she is available to the applicant for consultation, reviews the application and, when the application is complete, submits it to the Planning Board. If the application is approved by the Planning Board, the *Code Enforcement Officer* shall issue the permit within seven (7) days.

4. Any *aggrieved party* may appeal the *Code Enforcement Officer's* decision or failure to act to the Board of Appeals. Appeal applications are available at the Town Office.

C. Submission Requirements:

1. Name, address and phone number of the owner(s), of the applicant(s) (if different from the owner), and of the applicant(s)' agent, if any.
2. Property location including the Fayette tax map and lot number.
3. Verification of the applicant's right, title or interest in the property.
4. Receipt of the appropriate permit fee.
5. Estimated cost of the proposal.
6. Schedule of construction including anticipated beginning and completion dates.
7. Plumbing and/or subsurface wastewater disposal permit application.
8. A written description of the proposed project.
9. A map (drawn to scale, if required by the *Code Enforcement Officer*) showing the location, boundaries, dimensions, elevations, uses and size of the following: site; structures; setbacks; parking areas; roads; driveways; drainage ways; erosion and storm water control measures; open space; landscaping; aquifers; buffers and all water bodies.
10. Any other information necessary to show that the proposal complies with the applicable provisions of this Ordinance.
11. A notice shall be mailed by first class mail to the applicant and *abutters* in order to notify them of the date, time, place and purpose of the *public hearing*. Only those abutters having property lines within two hundred fifty (250) feet of the proposed project site shall be notified.
12. If the project involves a non-conforming lot, the date the non-conforming lot was created.

SECTION 6. PLANNING BOARD REVIEW

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

B. Application Procedure:

1. An applicant shall submit to the Planning Board a copy of a complete application. Within thirty (30) days of receiving the application the Planning Board shall determine if the application is complete. The Planning Board or its designee shall notify the applicant in writing if the application is complete or if it is not complete, of the specific items necessary to complete the application. The Planning Board may decide to hold a *public hearing* on the application.

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

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

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

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

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

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

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

C. Submission requirements:

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

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

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

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

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

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

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

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

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

(2) Located outside of the *floodway* of the 100 year floodplain along *rivers* and artificially formed *great ponds* along *rivers*, based upon the FIRM maps for the Town of Fayette; all buildings,

including *basement* floors, are elevated at least one (1) foot above the 100 year floodplain elevation; and the *development* is otherwise in compliance with any applicable floodplain management ordinance.

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

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

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

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

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

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

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

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

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

3. If the Planning Board makes the determinations described in paragraph 2, above, then it may reduce the setback requirement from the road to no less than twenty feet (20') from the road right-of-way or, if that cannot be determined, forty-five feet (45') from the centerline of the road.

ARTICLE 7. LAND USE DISTRICTS

SECTION 1. LAND USE MAP

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

SECTION 2. LAND USE DISTRICTS

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

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

SECTION 3. DISTRICT BOUNDARIES

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

1. Boundaries indicated as approximately following the center lines of streets, highways, or *roads* shall be construed to follow such center lines.
2. Boundaries indicated as approximately following well established lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits.
4. Boundaries indicated as following shorelines shall be construed to follow the normal high water line, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of stream, *rivers*, lakes or other bodies of water shall be construed to follow such center lines.
5. Boundaries indicated as being parallel to or extension of features indicated in subsections 1 and 2, above, shall be so construed. Distances not specifically indicated on the Official Land Use Map and description of documents and bounds in the deed shall be resolved in favor of the description of *metes and bounds*.
6. Where physical or cultural features existing on the ground are at variance with those on the Official Land Use Map or in circumstances where the items covered by subsection 1 through 5 above are not clear, the Board of Appeals shall interpret the district boundaries.

SECTION 4. DISTRICT PURPOSES

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

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

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

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

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

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

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

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

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

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

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

D. Shoreland District. The Shoreland Protection District includes areas within 250 feet of *great ponds*, *rivers* and *freshwater wetlands* not included within the Wetland Protection District or Resource Protection District. It provides for limited seasonal and year-round residential and recreational *development*, consistent with preservation of water quality. Requirements for this District are found in the Mandatory Shoreland Zoning Act, Title 38, *MRSA* Section 435, Section 438 et seq.

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

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

SECTION 5. TABLE OF LAND USES

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

ABBREVIATIONS FOUND IN LAND USE TABLE: Table 1:

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

No - Prohibited

PB - Allowed with permit issued by the Planning Board

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

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

LPI – Licensed Plumbing Inspector – permit may be required.

N/A – Not applicable.

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

Abbreviations:

RP - Resource Protection

SD - Shoreland District

SP - Stream Protection

RD - Rural District

WP - Wetland Protection

RG - Rural Growth

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

TABLE 1. LAND USES

	District					
	RP	SP	WP	SD	RD	RG
Accessory Structures	PB Key #2	PB Key #2	CEO Key #2	CEO	CEO	CEO
Agriculture	PB	CEO	CEO	CEO	YES	YES
Auto Repair & Service	NO	NO	NO	NO	PB	PB
Cemeteries	NO	NO	NO	NO	PB	PB
Campground	NO	NO	PB	PB	PB	PB

TABLE 1. LAND USES

	District					
	RP	SP	WP	SD	RD	RG
Commercial - Small	NO	PB Key #2	PB	PB	PB	PB
Communication towers	PB	PB	PB	PB	PB	PB
Conversion – residence from seasonal to year-round -1 ST 100 ft. from shoreline	PB Key #6	PB Key #6	PB/ Key #6	PB Key #6	N/A	N/A
Conversion - residence from seasonal to year- round >100 ft. from shoreline	PB Key #6	CEO Key #6	CEO/ Key #6	CEO Key #6	Yes	Yes
Culverts	PB	PB	PB	PB	CEO	CEO
Emergency operations	YES	YES	YES	YES	YES	YES
Essential Services	PB	PB	PB	PB	YES	YES
Family Burial Plots	NO	NO	PB	PB	PB	PB
Fill & earth moving greater than 10 cubic yards	CEO	CEO	CEO	CEO	YES Key #3	YES Key #3
Fill & earth moving less than 10 cubic yards	CEO	CEO	CEO	YES	YES	YES
Fire prevention activities	YES	YES	YES	YES	YES	YES
Forest Management	PB	PB	PB	PB	CEO	CEO
Government & Institutional	NO	PB	PB	PB	PB	PB
Home Occupation	CEO	CEO	YES	YES	YES	YES
Individual Campsite	PB	CEO	CEO	CEO	CEO	CEO
Junkyards & Auto Graveyards	NO	NO	NO	NO	SB	SB
Marinas	NO	NO	NO	PB	N/A	N/A
Mineral Extraction	NO	NO	NO	NO	PB	PB
Mineral Exploration	NO	NO	NO	NO	YES	YES
Mobile home parks	NO	NO	NO	PB	PB	PB
Multi-unit residential	NO	NO	NO	PB	PB	PB
1 & 2 family dwelling	PB Key #4	PB Key #2	PB	PB	CEO	CEO
Parking areas	NO Key #5	PB Key #2	PB	PB	CEO	CEO
Permanent pier or dock.	NO	PB	PB	PB	YES	YES
Rear lot	NO	NO	NO	YES	YES	YES
Recreation – active	PB	PB	PB	PB	PB	PB
Recreation - passive	YES	YES	YES	YES	YES	YES
Road & driveway<500 ft	PB	PB	PB	PB	CEO	CEO
Road & driveway>500 ft	NO	PB	PB	PB	PB	PB
Subdivisions	PB	PB	PB	PB	PB	PB

TABLE 1. LAND USES

	District					
	RP	SP	WP	SD	RD	RG
Temporary pier or dock	CEO	CEO	CEO	CEO	N/A	N/A
Timber Harvesting less than 75 Ft from Shore	PB Key #7	PB Key #7	PB Key #7	PB Key #7	N/A	N/A
Timber Harvesting more than 75 Ft from Shore	PB Key 7	PB Key 7	PB Key 7	PB Key 7	N/A	N/A
Uses similar to uses requiring CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
Uses similar to uses requiring PB Permit	PB	PB	PB	PB	PB	PB

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

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

KEY:

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

SECTION 6. DIMENSIONAL REQUIREMENTS

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

A. Table of Dimensional Requirements

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

NOTES

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

2. The minimum *shore frontage* of any Commercial, *Institutional* or Government structure located in a Shoreland, Stream Protection, Wetland and Resource Protection Districts shall be 300 feet.

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

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

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

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

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

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

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

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

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

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

B. Other Dimensional Requirements:

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

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

3. For lots in the Resource Protection, Stream Protection, Wetland Protection and Shoreland Districts, the minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the *normal high-water line* of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 8 - LAND USE STANDARDS

SECTION 1. APPLICABILITY

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

SECTION 2. WELLS, INTERNAL PLUMBING AND SUBSURFACE WASTEWATER DISPOSAL

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4. CAMPGROUNDS

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

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

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

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

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

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

SECTION 5. INDIVIDUAL PRIVATE CAMPSITES

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

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

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

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

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

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

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

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

SECTION 6. PARKING AREAS

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

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

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

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

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

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

SECTION 7. ROADS, DRIVEWAYS, CULVERTS AND ENTRANCES

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

A. *Roads* and *driveways* shall be set back at least one-hundred (100) feet, horizontal distance, from the *normal high-water line* of a *great pond classified GPA*, and seventy-five (75) feet, horizontal distance from the *normal high-water line* of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists, as determined by the Planning Board. If no other reasonable alternative exists, the *road* and/or *driveway setback* requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2-A. The applicant cannot construct a driveway/road that would meet the setback requirements from both the resource being protected (i.e. pond, lake, stream, wetland, etc.) and the property line/road setbacks, and it is more important from the perspective of protecting the resource that the driveway/road must meet the setback from the resource rather than the setback from the property line/road; and/or

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

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

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

SECTION 8. SIGNS

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

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

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

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

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

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

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

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

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

SECTION 9. STORMWATER RUNOFF

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

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

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

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

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

SECTION 10. PHOSPHORUS CONTROL

The following standards shall apply to all *development* located in the direct watershed of a *great pond* except for residential dwellings and agricultural uses. A phosphorus control plan shall be developed in accordance with the design criteria contained in the current edition of "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development," published by the Maine Department of Environmental Protection, revised 2002.

SECTION 11. ESSENTIAL SERVICES

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

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

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

SECTION 12. MINERAL EXPLORATION AND EXTRACTION

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

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

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

2. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the *normal high-water line* of a *great pond classified GPA* or a *river* flowing to a *great pond classified GPA*, and within seventy-five (75) feet, horizontal distance, of the *normal high-water line* of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

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

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

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

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

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

SECTION 13. AGRICULTURE

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

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

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

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

E. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the *normal high-water line* of a *great pond classified GPA*; within seventy-five (75) feet, horizontal distance, of other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above *setback* provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

SECTION 14. TIMBER HARVESTING

SUBSECTION 1. SCOPE AND APPLICABILITY

A. **SCOPE.** This rule governs all timber harvesting and related activities conducted in, over, or near water bodies, including rivers, streams, brooks, ponds, lakes, Great Ponds,

freshwater wetlands, and coastal wetlands, and tidal waters throughout the State, unless exempt in Section 3. B. of this rule.

- B. EXEMPTION.** This rule does not govern timber harvesting and related activities in forested wetlands, unless the forested wetlands lie within a Shoreland area.
- C. RELATIONSHIP TO OTHER LEGAL REQUIREMENTS.** Whenever provisions of this rule are less stringent than corresponding provisions of applicable federal, state, or municipal legal requirements, the more stringent provision shall apply.

SUBSECTION 2. SHORELINE INTEGRITY AND SEDIMENTATION

- A. APPLICABILITY.** The requirements of Section 5 apply to all timber harvesting and related activities conducted in all Shoreland areas as defined in this rule.
- B. STANDARDS.** Persons conducting timber harvesting and related activities in Shoreland areas must 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. This section does not apply to crossings of water bodies conducted in compliance with Section 11 of this rule.

SUBSECTION 3. SLASH TREATMENT

- A.** 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. This section does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
- B.** No accumulation of slash shall be left within 50 feet of:
 - 1. the normal high water line of Great Ponds, rivers, non-forested wetlands larger than 10 acres, and tidal waters in the jurisdiction of the Land Use Regulation Commission; and,
 - 2. the normal high water line of Great Ponds, rivers, non-forested wetlands larger than 10 acres, and tidal waters in municipalities not subject to the jurisdiction of the Land Use Regulation Commission.

Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil may be left in place, provided no part thereof extends more than 4 feet above the ground.

- C.** Between 50 feet and 250 feet of the normal high water line of a water body identified in subsection 6.B. above, 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.

SUBSECTION 4. STANDARDS FOR TIMBER HARVESTING AND RELATED ACTIVITIES IN SHORELAND AREAS REQUIRING A 250-FOOT ZONE

- A. APPLICABILITY.** The requirements of Section 7 apply to all timber harvesting and related activities in Shoreland areas within 250 feet, horizontal distance, of the normal high water line of:

- 1. Rivers below the 50 square mile drainage point in the jurisdiction of the Land Use Regulation Commission
- 2. Rivers below the 25 square mile drainage point in municipalities not subject to the

jurisdiction of the Land Use Regulation Commission;

3. Great Ponds and non-forested freshwater wetlands 10 acres or larger;
4. Any coastal wetland or tidal water; and,
5. Any size pond or freshwater wetland identified by the Department of Inland Fisheries and Wildlife as significant wildlife habitat or essential wildlife habitat.

B. SHADE AND TREE RETENTION STANDARDS.

Timber harvesting and related activities in Shoreland areas subject to the requirements of Section 7 must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. The requirements of this section may be satisfied by following one of the following three options:

1. Option 1 (40% volume removal), which requires:

- a. Harvesting of no more than 40 percent of the total volume on each acre involved of trees 4.5 inches DBH or greater in any 10 year period is permitted.

For the purposes of these standards volume may be considered to be equivalent to basal area;

- b. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
- c. Within 75 feet, horizontal distance, of the normal high water line of shoreland areas regulated under this section, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high water line, 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 apart. Such cleared openings will be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered equivalent to basal area.

2. Option 2 (60 square foot basal area retention), which requires:

- a. 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;
- b. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
- c. Within 75 feet, horizontal distance, of the normal high water line of Shoreland areas regulated under this section, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high water line, 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 apart. Such cleared openings will be included in the calculation of total volume removal. For the purposes of these standards, volume may be considered equivalent to basal area.

3. **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 Bureau and Town and approved by the Bureau and Town, 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 MRSA, chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance with this section 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 required application.

The Town, their designee and/or 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.

SUBSECTION 5. STANDARDS FOR TIMBER HARVESTING AND RELATED ACTIVITIES IN SHORELAND AREAS REQUIRING A 75-FOOT ZONE

A. APPLICABILITY. The requirements of Section 8 apply to all timber harvesting and related activities in Shoreland areas within 75 feet, horizontal distance, of the normal high water line of:

1. Streams between the 300 acre drainage point and the 50 square mile drainage point in the jurisdiction of the Land Use Regulation Commission; and,
2. Between the 300 acre drainage point and the 25 square mile drainage point in municipalities not subject to the jurisdiction of the Land Use Regulation Commission.

B. SHADE AND TREE RETENTION STANDARDS.

Timber harvesting and related activities in Shoreland areas subject to the requirements of Section 8 must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. The requirements of this section may be satisfied by following one of the following three options:

1. Option 1 (40% volume removal), which requires:

- a. Harvesting of no more than 40 percent of the total volume on each acre involved of trees 4.5 inches DBH or greater in any 10 year period is permitted. For the purposes of these standards volume may be considered to be equivalent to basal area;
- b. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
- c. There must be no cleared openings.

2. Option 2 (60 square foot basal area retention), which requires:

- a. 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;
- b. A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
- c. There must be no cleared openings.

3. 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 Bureau and approved by the Bureau, 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 MRSA, chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance with this section 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 Town, their designee, and/or the Bureau has approved the required application. The Town, their designee, and/or 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.

SUBSECTION 6. SKID TRAILS, YARDS, AND EQUIPMENT OPERATION

A. APPLICABILITY. The requirements of Section 9 apply to the construction, maintenance, and use of skid trails and yards in Shoreland areas. This section does not apply to crossings of water bodies conducted in compliance with Section 11 of this rule.

B. STREAM CHANNELS. Equipment used in timber harvesting and related activities shall not use stream channels as travel routes except when:

1. surface waters are frozen and snow covered; and,
2. the activity will not result in any ground disturbance.

C. DESIGN, CONSTRUCTION, AND CLOSEOUT. Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body. Upon termination of their use, skid trails and yards must be stabilized.

D. SETBACKS.

1. Except for crossings of stream channels or freshwater wetlands, equipment used in timber harvesting and related activities, including but not limited to the use of skid trails and yards, must be operated to avoid the exposure of mineral soil within 25 feet of any water body or wetland regulated by this rule. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, plus an additional 10 feet for each 5 percent increase in slope above 10 percent. These requirements are presented in an alternative format in the slope table in Section 12 of this rule.
2. The provisions of this subsection apply only to a face sloping toward the water body or freshwater or coastal wetland, provided, however, that no portion of such exposed mineral soil on a back face is closer than 25 feet from the normal high water line of a water body or upland edge of a freshwater or coastal wetland. The setback requirements of this subsection shall not apply to skid trail approaches to crossings of stream channels or freshwater wetlands.
3. Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body 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 or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

Exception. Timber harvesting and related activities in Shoreland areas of streams draining less than 300 acres and wetlands adjacent to such streams may be conducted in a manner not in conformity with the setback 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.

SUBSECTION 7. LAND MANAGEMENT ROAD CONSTRUCTION AND MAINTENANCE STANDARDS

A. APPLICABILITY. The requirements of Section 10 apply to the construction, maintenance, and use of land management roads in Shoreland areas. This section does not apply to crossings of water bodies conducted in compliance with Section 11 of this rule.

B. ROAD DESIGN, CONSTRUCTION, AND MAINTENANCE. Land management roads, including approaches to crossings of 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. Surface water on or adjacent to crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse. Because roadside ditches may not extend to the resource being crossed, filter strips must be established in accordance with the slope table in Section 12 of this rule.

C. SETBACKS. Land management roads and associated ditches, excavation, and fill must be set back at least:

1. 100 feet from the normal high-water line of a Great Pond or a river that flows to a Great Pond, rivers draining more than 50 square miles in the jurisdiction of the Land Use Regulation Commission, rivers draining more than 25 square miles in municipalities not subject to the jurisdiction of the Land Use Regulation Commission, non-forested freshwater wetlands 10 acres or larger, any coastal wetland or tidal water, and any pond or freshwater wetland identified by the Department of Inland Fisheries and Wildlife as significant wildlife habitat or essential wildlife habitat;
2. 50 feet from the normal high water line of streams draining more than 300 acres but less than 50 square miles in the jurisdiction of the Land Use Regulation Commission and streams below the 300 acre drainage but above the 25 square mile drainage point in municipalities not subject to the jurisdiction of the Land Use Regulation Commission; and,
3. 25 feet from the normal high water line of streams draining less than 300 acres and ponds or freshwater wetlands larger than 4,300 square feet but less than 10 acres that are not identified by the Department of Inland Fisheries and Wildlife as significant wildlife habitat or essential wildlife habitat.

4. Exceptions:

- a. The minimum 100 foot setback specified in subsection 1 above may be reduced to no less than 50 feet, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Bureau's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body. 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. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- b. The minimum 50 foot setback specified in subsection 2 above may be reduced to no less than 25 feet, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Bureau's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body. 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 or the disruption of shoreline integrity. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

5. On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, plus an additional 10 feet for each 5 percent increase in slope above 10 percent, but in no case may the land management road setback be less than that indicated in the slope table presented in Section 12 of this rule.
6. New land management roads are not permitted within the Shoreland area along Significant River Segments as identified in 38 MRSA, chapter 3, subchapter 1, article 2-B, nor in Resource Protection Districts as identified in municipal Shoreland zoning ordinances nor in Recreation Protection Subdistricts (P-RR) as identified by the Land Use Regulation Commission, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Bureau'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.

D. MAINTENANCE. 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 slope table set forth in Section 12 of this rule. Where such filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body 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 or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

E. ROAD CLOSEOUT AND DISCONTINUANCE. Maintenance of the water control installations required above 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 sufficient distance beyond the traveled way so that water does not reenter the road surface.

F. UPGRADING EXISTING ROADS. Extension or enlargement of presently existing roads must conform to the provisions of this section. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.

Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 10.C if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Bureau's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body. 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. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

G. ADDITIONAL MEASURES. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and stream crossings must take reasonable measures to avoid sedimentation of surface waters.

SUBSECTION 8. CROSSINGS OF WATER BODIES

A. APPLICABILITY. The requirements of Section 11 apply to all crossings of stream channels, rivers, ponds, lakes, Great Ponds, non-forested freshwater wetlands, coastal wetlands, tidal waters, and freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as significant wildlife habitat or essential wildlife habitat.

B. ALL CROSSINGS.

1. Crossings must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal stream flows.
2. 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 to the Bureau as means of calculating the 10 year and 25 year frequency water flows and thereby determining crossing sizes as required in this section: 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.
3. Upgrading existing crossings. Extension or enlargement of presently existing crossings must conform to the provisions of this section. Any nonconforming existing 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 this section.
4. **Other Agency Permits.**
 - a. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on water bodies other than a stream channel or river, including crossings of Significant River Segments and freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as significant wildlife habitat or essential wildlife habitat, may require a permit from one or more of the following: the Land Use Regulation Commission, the Department of Environmental Protection, and the US Army Corps of Engineers. When a permit is required, the crossing is not required to meet the standards of this section provided it conforms with all applicable state and federal requirements and any permit conditions.
 - b. 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.
5. **Notice to Town/Bureau.** Notification to the Town and Bureau is required prior to construction, maintenance, alteration, and replacement of crossings. Written notice of all temporary and permanent water body crossing construction, maintenance, alteration, and replacement activities in Shoreland areas regulated by this rule must be given to the Town and Bureau prior to the commencement of such activities. Multiple crossings within one township or municipality may be submitted on one notification form. Such notice must contain all information required by the Town, their designee, and the Bureau, including:
 - a. a map showing the location of all proposed permanent crossings;
 - b. the GPS location of all proposed permanent crossings;

- c. for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and,
- d. 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 chapter.

C. SKID TRAIL CROSSINGS.

1. Design and Construction.

- a. All skid trail crossings of streams and rivers below the 25 square mile drainage point require a bridge or culvert sized according to the requirements of subsection 2 below.
- b. Streams above the 25 square mile drainage point may be crossed using temporary structures that are not bridges or culverts but which meet the requirements of the following subsection c; or
 - i. when stream channels are frozen and snow-covered; or
 - ii. when stream channels are composed of a hard surface which will not be eroded or otherwise damaged.
- c. All skid trail crossings of streams must be designed, constructed, and maintained, such that:
 - i. sedimentation of surface waters is reasonably avoided;
 - ii. there is no substantial disturbance of the bank or stream channel;
 - iii. fish passage is not impeded; and,
 - iv. water flow is not unreasonably impeded.

2. Bridge and Culvert Sizing. The following requirements apply to skid trail crossings of stream channels when surface waters are unfrozen:

- a. 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 stream channel.
- b. Temporary bridge and culvert sizes may be smaller than provided in subsection a above 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 is avoided. Such crossing structures must be at least as wide as the channel and, if not culverts, 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:
 - i. use of temporary skidder bridges;
 - ii. removing culverts prior to the onset of frozen ground conditions;
 - iii. using water bars in conjunction with culverts;
 - iv. using road dips in conjunction with culverts.
- c. Culverts utilized in stream crossings must:
 - i. be installed at or below stream bed elevation;
 - ii. be seated on firm ground;

- iii. have soil compacted at least halfway up the side of the culvert;
 - iv. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
 - v. have a headwall at the inlet end which is adequately stabilized by rip-rap or other suitable means to reasonably avoid erosion of material around the culvert.
 - d. Stream crossings allowed under this section, 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 crossing may be required to pass a 100-year flood event.
3. 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:
- a. Bridges and culverts installed for stream crossings by skid trails must either:
 - i. comply with the standards for stream channel crossings by land management roads as set forth in this rule, or
 - ii. be removed and areas of exposed soil stabilized.
 - b. Crossing structures that are not bridges or culverts must either:
 - i. be removed immediately following timber harvesting and related activities, or,
 - ii. if frozen into the stream bed or bank, as soon as practical after snowmelt.
 - c. Stream channels, banks and approaches to crossings of water bodies 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.
4. Freshwater wetlands. Skid trail crossings, other than those areas below the normal high water line of water bodies, must avoid freshwater wetlands and must maintain the existing hydrology of such wetlands, unless there are no reasonable alternatives, as determined by the Bureau in a written decision prior to construction.
5. **Exception.** Timber harvesting and related activities in Shoreland areas of streams draining less than 300 acres and wetlands adjacent to such streams may be conducted 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

D. LAND MANAGEMENT ROAD STREAM CROSSINGS.

- 1. Design, construction, and maintenance. Land management road stream channel crossings, including approaches to stream channel crossings, ditches and other related structures, must be designed, constructed, and maintained such that:

- a. concentrated water runoff does not enter the water body or tributary stream;
 - b. sedimentation of surface waters is reasonably avoided;
 - c. there is no substantial disturbance of the stream bank or stream channel not directly associated with culvert or bridge installation;
 - d. fish passage is not impeded; and,
 - e. water flow is not unreasonably impeded.
2. Bridge and culvert sizing. The following requirements apply to land management road crossings of stream channels when surface waters are unfrozen:
- a. 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 stream channel.
 - b. Culverts utilized in stream crossings must:
 - i. be installed at or below stream bed elevation;
 - ii. be seated on firm ground;
 - iii. have soil compacted at least halfway up the side of the culvert;
 - iv. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
 - v. have a headwall at the inlet end which is adequately stabilized by rip-rap or other suitable means to reasonably avoid erosion of material around the culvert.

NOTE: For guidance on reasonable measures, consult the Bureau publication, “Best Management Practices for Forestry: Protecting Maine’s Water Quality” (2004). This publication is available from the Bureau and on the Bureau’s website, www.maineforestservice.org.

- c. Temporary bridge and culvert sizes may be smaller than provided in subsection a above 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 is avoided. Such crossing structures must be at least as wide as the channel and, if not culverts, 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:
 - i. use of temporary skidder bridges;
 - ii. removing culverts prior to the onset of frozen ground conditions;
 - iii. using water bars in conjunction with culverts; and/or,
 - iv. using road dips in conjunction with culverts.
3. Stream crossings allowed under this section, 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 crossing may be required to pass a 100-year flood event.
4. Road closeout and discontinuance. Maintenance of the water control installations

required above must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

- a. 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.
- b. Crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body.
- c. Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
 - i. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
 - ii. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the stream channel; or
 - iii. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the water body.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

5. Freshwater wetlands. Land management road crossings, other than those areas below the normal high water line of water bodies, must avoid freshwater wetlands and must maintain the existing hydrology of such wetlands, unless there are no reasonable alternatives, as determined by the Town, their designee, and the Bureau in a written decision.

SUBSECTION 9. SLOPE TABLE

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in the rule, but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and normal high water line (percent)	Width of strip between exposed mineral soil and normal high water line (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

SUBSECTION 10. VARIANCE

A variance to the strict application of this rule may be granted as specified in MFS Rule Chapter 20 (Forest Regeneration and Clearcutting Standards, Section 6), but must be approved by the Town and the Bureau.

SUBSECTION 11. VIOLATIONS

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders, contracts for, or conducts any activity in violation of this rule commits a civil violation, and shall be penalized in accordance with 12 MRSA, chapter 809.

SECTION 15. CLEARING OR REMOVAL OF VEGETATION FOR ACTIVITIES OTHER THAN TIMBER HARVESTING.

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

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

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

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

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

Diameter of tree at 4 1/2 feet above ground

Points

2 to 4 inches	1 point
more than 4 inches and up to 12 inches	2 points
more than 12 inches	4 points

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

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

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

3. Within a strip of land extending 100 feet, horizontal distance, inland from the normal highwater line of a *great pond classified GPA*, a *river* flowing to a *great pond classified*

GPA, and within 100 feet of any other waterbody or wetland, existing vegetation under three (3) feet in height and other *ground cover* may not be removed, except to provide for a footpath or other permitted uses as described in paragraph 2 above. In addition, within 100 feet, horizontal distance of the above noted waterbodies and wetlands, at least three (3) saplings less than two (2) inches in diameter at four and one-half (1/2) feet above ground level must be retained in each 25-foot by 25-foot rectangular area described in Article 8 Section 15 (B)(2) of the Ordinance. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited into the plot.

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

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

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

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

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

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

SECTION 16. EROSION AND SEDIMENTATION CONTROL

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

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

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

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

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

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

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

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

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

SECTION 17. SOILS

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

SECTION 18. WATER QUALITY

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

SECTION 19. ARCHAEOLOGICAL, HISTORIC, WILDLIFE HABITAT, SCENIC AREAS AND RARE AREAS AND RARE AND NATURAL AREAS

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

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

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

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

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

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

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

SECTION 20. AQUIFERS

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

SECTION 21. HOME OCCUPATION

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

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

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

SECTION 22. COMMERICAL, INDUSTRIAL AND INSTITUTIONAL STANDARDS

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

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

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

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

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

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

B. ROAD ACCESS STANDARDS

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

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

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

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

C. LANDSCAPING AND BUFFER STANDARDS

1. An existing or proposed vegetative, tree and shrub buffer shall be maintained along property lines of the *development*. The buffer area shall at a minimum consist of a strip of land no less than 15 feet in width.

2. Each proposed *development* shall develop a *road* landscape plan for a strip of land measuring 15 feet in width along the *road frontage* of the lot. Existing or proposed vegetation including trees and shrubs shall be incorporated into the plan. Parking areas shall not be allowed in this area except for necessary access points.

SECTION 23. BUILDING STANDARDS

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

SECTION 24. MULTI-FAMILY DWELLINGS

Multi-*family* dwellings shall meet the following requirements:

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

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

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

SECTION 25. MOBILE HOMES AND MOBILE HOME PARKS

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

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

SECTION 26. COMMON SHORELAND ACCESS

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

SECTION 27. AUTOMOBILE GRAVEYARDS AND JUNKYARDS

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

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

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

D. Design Standards: All applications reviewed by the Select Board after the effective date of this Ordinance shall meet the following requirements:

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

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

ARTICLE 9. DEFINITIONS

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

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

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

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

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

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

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

Automobile Recycling Business - the business premise of a *person* who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that 80% of the business premises specified in the site plan in Title

30-A *MRSA* Section 3755-A subsection 1, paragraph C is used for *automobile recycling operations*

Automobile Service and Repair - a business establishment engaged in general repair, engine rebuilding, parts replacement, muffler replacement, oil and lube service, brake service, auto glass, auto body repair, auto painting, car washing, undercoating, motorcycle repair, *recreational vehicle* repair such as snowmobiles, ATV's, boat engines, and small engine repair.

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

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

Brook – See “Stream Channel”

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

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

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

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

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

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

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

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

Crossing – means any timber harvesting and related activity involving the passage of ground-based equipment from one side to the opposite side of a water body, or to an island or upland within a water body. Such activities include, but are not limited to construction of roads, fords, bridges, and culverts, as well as maintenance work on these crossings.

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

De novo review - a review that looks at the factual and legal issues afresh, undertakes its own

credibility determinations, evaluates the evidence presented, and draws its own conclusions.

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

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

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

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

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

Disruption of shoreline integrity - the alteration of the physical shape, properties, or condition of a shoreline at any location by 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.

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

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

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

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

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

Expansion of a Structure - an increase in the *floor area* or volume of a structure, including all

extensions such as, but not limited to, the following attached structures: decks, garages, porches and greenhouses.

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

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

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

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

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

Forest Management - 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*.

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.

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

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

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

1. of ten or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any *river*, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and:
2. inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and:
3. Not part of a Great Pond, stream, or river.

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

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

Functionally Water-dependent Uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, inland waters and that cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, (excluding recreational boat storage buildings), finfish and

shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, *marinas*, navigation aids, basins and channels, retaining walls, *industrial* uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters.

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

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

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

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

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

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.

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

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

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

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

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

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

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

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.

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

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

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

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

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

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

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

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

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

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

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

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

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

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

MRSA - Maine Revised Statutes Annotated.

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

Native - flora that are indigenous to the local forests.

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

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

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

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

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

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

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

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

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

Public Facility - any facility, including, but not limited to, buildings, property, recreation areas, and

roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity and/or including facilities commonly and frequently used by the public regardless of ownership.

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

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

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

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

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

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

Recreational Vehicle - a vehicle, or an attachment to a vehicle intended to be towed and that is designed for temporary sleeping or living quarters for one or more *persons*, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

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

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

Residual basal area - the average of the basal area of trees remaining on a harvested site.

Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities.

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

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

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

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

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

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

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

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

Service Drop (cont.) -

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

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

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

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

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

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

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

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.

Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

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

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

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

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

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

Subsurface Sewage Disposal System - any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; *grandfathered* cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

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

Timber Harvesting and Related Activities - the cutting and removal of trees from their growing site, for the primary purpose of selling or processing forest products; the construction and maintenance of *roads* and timber yarding areas used primarily for timber harvesting and other activities conducted to facilitate the timber harvest. The cutting or removal of trees in the Protected Districts on a lot that has less than two (2) acres within these Protected Districts shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Article 8 Section 15, Clearing of Vegetation.

Timber Harvest Best Management Practices - timber harvest standards adopted by the Maine

Forest Service and recommended for application, especially to Shoreland, Stream and Wetland Districts.

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

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

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

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

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

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

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

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

Watershed - an area of land that drains downslope to the lowest point. The water moves through a network of drainage pathways, both underground and on the surface. Generally, these pathways converge into streams and *rivers*, which become progressively larger as the water moves on downstream, eventually reaching an estuary and the ocean. Watersheds can be large or small. Every stream, tributary, or *river* has an associated watershed, and small watersheds join to become larger watersheds. Watershed boundaries follow major ridgelines around channels and meet at the bottom, where water flows out of the watershed, a point commonly referred to as a stream or *river*. (Because water moves downstream, any activity that affects the water quality, quantity, or rate of movement at one location can affect locations downstream. For this reason, everyone living or working within a watershed needs to cooperate to ensure good watershed conditions).

Wetland - See *freshwater wetland*.

Wetlands Associated with Great Ponds and Rivers - wetlands contiguous with or adjacent to a *great pond* or *river*, and which during normal high water, are connected by surface water to the *great*

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

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

Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

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

Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs
in the Municipality of Fayette

Section 1. Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

Section 2. Definitions.

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442.

Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. § 2442.

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

Section 4. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

Section 5. Penalties.

This ordinance shall be enforced by the municipal officers or their designee. Violations of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.

Town of Fayette Ordinance Restricting Vehicle Weight on Posted Ways

Section 1. Purpose and Authority

The purpose of this "Ordinance Restricting Vehicle Weight on Posted Ways" (hereinafter, the "Ordinance") is to prevent damage to town ways and bridges in the Town of Fayette which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2395 and 2388.

Section 2. Definitions

The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance. Any words not defined therein shall be given their common and ordinary meaning.

Section 3. Restrictions and Notices

The municipal officers may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signatures of the municipal officers. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way.

Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

Section 4. Exemptions

Vehicles that are exempt from the Maine Department of Transportation's (MDOT) "Rules and Regulations Restricting Heavy Loads on Closed Ways" dated December 31, 1996 and amended on March 4, 1998, a copy of which is attached hereto and is hereby incorporated as part of this Ordinance, are exempt from this Ordinance. In addition, any vehicle delivering home heating fuel and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4) and, when necessary during a period of drought emergency declared by the governor, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purpose and operating in accordance with a permit issued by the MDOT

under 29-A M.R.S.A. § 2395 (4-A).

Section 5. Permits

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers may issue a permit only upon all of the following findings:

- (a) no other route is reasonably available to the applicant;
- (b) it is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
- (c) the applicant has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the municipal officers make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way or bridge maintained by the municipality. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways and bridges.

In determining whether to issue a permit, the municipal officers shall consider the following factors:

- (a) the gross registered weight of the vehicle;
 - (b) the current and anticipated condition of the way or bridge;
 - (c) the number and frequency of vehicle trips proposed;
 - (d) the cost and availability of materials and equipment for repairs;
 - (e) the extent of use by other exempt vehicles; and
 - (f) such other circumstances as may, in their judgment, be relevant.
- The municipal officers may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

Section 6. Administration and Enforcement

This Ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee road commissioner.

Section 7. Penalties

Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than \$250.00 nor more than \$1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the municipality and shall be brought in the Maine District Court.

Section 8. Amendments

This Ordinance may be amended by the municipal officers at any properly noticed meeting.

Section 9. Severability; Effective Date

In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect. This Ordinance shall take effect immediately upon enactment by the municipal officers at any properly noticed meeting.

TOWN OF FAYETTE

SUBDIVISION

ORDINANCE

MAY, 1999

*Approved at Town Mtg.
June 19, 1999*

Preface

The Town of Fayette is a small rural community with a landscape dominated by forest, fields and undeveloped land. The year-round population of nearly 900 residents occupies homes dispersed throughout the town. The population doubles in the summer as seasonal residents occupy the nearly 320 camps and cottages dotted along Fayette's numerous lakes and ponds.

Both permanent and seasonal residents enjoy the quiet and unspoiled rural atmosphere that defines Fayette's character. Many homes and camps are hidden or partially screened from the road by existing forest or landscaping which enhances the rural character of the community. The only major arterial road is State Route 17 that has not developed in a sprawl fashion. Public buildings such as the Town Hall, School, Fire Station and a few commercial uses line Route 17 along with homes, and some private camps.

Residents of the Town have expressed a strong interest in preserving and enhancing the existing rural character of the community. The purpose of the Subdivision Ordinance is to implement the desire of Fayette residents to continue to live in a pleasant rural setting while allowing for appropriate new development. The Ordinance will accomplish this task by: adhering to the Town's Comprehensive Plan; protecting the Town's natural resources such as, lakes, ponds, streams, wetlands, critical habitat areas, steep slopes, floodplains, and aquifers; protecting archeological, historic and scenic resources; protecting agricultural and forest operations; preserving prime farm and forest land; providing adequate recreational opportunities; providing for safe traffic access and adequate roads; providing for adequate fire protection; establishing standards for the placement of wells and septic systems; and by developing performance standards for the placement of subdivisions.

The goal of the Subdivision Ordinance is to make sure that future Town residents will enjoy the same rural character that is valued by current inhabitants of Fayette and at the same time meet the demands for new development. While this Ordinance will require subdivisions to conform to minimum development standards it is also the hope of the Town that new residents and developers will exceed these minimum standards in order to further enhance the quality of life in our community.

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Section 1 General

A. Title:

This Ordinance shall be known as the Town of Fayette Subdivision Ordinance and will be referred to as "this Ordinance".

B. Authority:

This Ordinance has been prepared in accordance with the provisions of Title 30 - A, M.R.S.A. Section 4403.

C. Purpose:

The purposes of this Ordinance are :

- To provide for an expeditious and efficient process for the review of proposed subdivisions.
- To clarify the approval criteria of the State Subdivision Law, found in Title 30 -A, M.R.S.A. Section 4404.
- To preserve and enhance the rural character of the community.
- To assure the safety, health, and welfare of the people of the Town of Fayette.
- To provide adequate recreational opportunities.
- To protect the natural resources of the Town of Fayette.
- To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures.
- To promote the development of an economically sound and stable community.

D. Applicability:

The provisions of this Ordinance shall apply to all development considered to be a subdivision as defined by Title 30 -A, M.R.S.A Section 4401 and this Ordinance.

E. Effective Date:

The effective date of this Ordinance shall be the date of the adoption by the Town of Fayette on:

F. Conflicts with other Ordinances:

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 more restrictive provision shall control.

G. Validity and Severability:

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

H. Availability:

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

I. Application Forms:

The Town of Fayette Planning Board shall develop application forms to be used by all applicants seeking subdivision approval.

J. Application Fee:

All applications for subdivision approval shall be accompanied by the following fees:

The fee for filing a preliminary plan shall be \$150.00 plus \$50.00 per lot and/or unit.
(The fee for a minor subdivision that is permitted to file a final plan shall be the same as a preliminary plan.)

All fees are non-refundable and shall be paid to the Town of Fayette upon filing the appropriate subdivision application.

K. Amendments:

An amendment to this Ordinance may be adopted by a majority vote of the Town Meeting.

Section 2 Definitions

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

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting of, denial of a permit under this Ordinance; a person whose land abuts land for which a permit 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 a permit.

Applicant: The person applying for subdivision approval under this Ordinance.

Complete Application: An application shall be considered complete upon submission of the required fee and all the information required by this Ordinance, or by a vote to waive certain submission or performance standards by a vote of the Planning Board.

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

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

Minor Subdivision: A minor subdivision shall be considered a subdivision proposal consisting of no more than 4 lots and/or units and which do not involve the construction of any private or public roads. All of these conditions must exist to qualify for a minor subdivision.

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

Preliminary Plan: The preliminary drawings and other required materials indicating the proposed layout of the subdivision to be submitted to the Planning Board for consideration.

Property Owner: The owner of land shall be determined to be that person listed as the current owner of record on the Town of Fayette property tax assessment records.

Public Improvements: The term shall include all roads proposed for public acceptance; fire protection structures and ponds; any structure or land proposed to be dedicated to the Town; any land or structure which is offered as an easement to the Town; and, all storm drainage structures which are designed to allow water to flow outside the property of the subdivision.

Sketch Plan: Conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial inquiry and review prior to submitting an application for subdivision approval.

Subdivision: As defined in Title 30 - A, M.R.S.A. Section 4401 and in addition, lots greater than 40 acres shall be deemed to be a lot and subject to the provisions of this Ordinance.

Wetland: Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, river, stream or brook. Wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

Section 3 Review Criteria

The Planning Board shall consider the following criteria and before granting approval must determine that:

- A. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - The elevation of the land above sea level and its relation to the floodplain,
 - The nature of the soils and subsoils and their ability to adequately support waste disposal,
 - The slope of the land and its effect upon effluents, and,
 - The applicable state and local health and water resources rules and regulations.
- B. The proposed subdivision has sufficient water available for the reasonable needs of the subdivision.
- C. The proposed subdivision will not cause an unreasonable burden on an existing municipal or private water supply, if one is to be used.
- D. The proposed subdivision will not cause unreasonable soil erosion, unmitigated stormwater runoff, or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
- E. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe intersections or other conditions with respect to the use of the highways or public roads existing or proposed.
- F. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are used.
- G. The proposed subdivision will not cause an unreasonable burden on the town's ability to dispose of solid waste, if Town services are used.
- H. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, archeological sites, significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the Town, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
- I. The proposed subdivision conforms with all the applicable standards and requirements of this Ordinance, the comprehensive plan, and other local ordinances. In making this determination, the planning Board may interpret these ordinances and plans.
- J. The subdivider has adequate financial and technical capacity to meet all the Review Criteria and the standards and requirements contained in this Ordinance.
- K. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, Subchapter 1, Article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

- When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principle structures to have a combined shore frontage and setback from the normal high-water mark of 500 feet.

- To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if the lot lines extend to the shore.

- The frontage and setback provisions of this paragraph do not apply either within areas zoned general development or its equivalent under Shoreland Zoning, Title 38, Chapter 3, Subchapter 1, Article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirement of Section 4401, Subsection 1, on September 23, 1983.

- L. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- M. Based on Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundary within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with the lowest floor, including the basement, at least one foot above the 100-year flood elevation.
- N. All fresh water wetlands within the proposed subdivision have been identified and delineated on any maps submitted as part of the application, regardless of the size of these wetlands. All wetlands shall be preserved to the greatest extent practicable.
- O. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. All rivers, streams or brooks shall be protected from any adverse development impacts.
- P. The proposed subdivision will provide for adequate storm water management.
- Q. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or wetland as these features are defined in Title 38, Section 480-B, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5 to 1.
- R. The cumulative effects of the proposed subdivision will not increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

Section 4 Administration and General Procedures

A. Administration:

1. The Planning Board shall administer this Ordinance and review all subdivision applications according to the applicable review criteria and standards.
2. The Planning Board shall provide the Code Enforcement Officer a copy of its decision on a subdivision application including all application materials.

B. Decisions:

1. The Planning Board shall determine if the subdivision application is complete before it schedules a public hearing and begins a review of the application.
2. After review of a complete application the Planning Board shall determine whether or not the application meets the Review Criteria contained in Section 3 of this Ordinance. The Planning Board shall make a written finding of fact to support its decision and vote to approve the application, deny the application, or approve the application with conditions.
3. If in its findings, the Planning Board determines that the application may not meet the review criteria, and that additional actions by the applicant will be sufficient to meet them, it may require such actions, as conditions of approval. The conditions may set forth requirements in addition to those set forth in the Ordinance only when the Planning Board finds it necessary to further the purposes of this Ordinance. All conditions approved by the Planning Board shall be listed along with the reasons for these conditions in the Planning Board's decision and on the final subdivision plan.
4. The Planning Board shall list any waivers approved by the Board in its decision and on the final subdivision plan and the reasons for such approval.

C. Burden of Proof:

1. The applicant shall have the burden of proof to show the proposed subdivision application meets the applicable review criteria and standards contained in this Ordinance.

D. Additional Studies:

1. The Planning Board may require the applicant, to perform additional studies or hire a consultant to review the entire or portions of the subdivision application. The cost to perform additional studies or hire a consultant shall be borne by the applicant. The Planning Board may require the applicant to deposit with the Town the estimated cost of any consultant or additional study which shall be placed in an escrow account. The Town shall pay for the services rendered and reimburse the applicant, if funds remain after payments are completed. The applicant shall place additional funds into the escrow account in order to meet expenses.

E. Rights Not Vested:

1. The submittal of a sketch plan or a preliminary plan to the Planning Board to review for a complete application shall not be considered the initiation of the review process for the purposes of bringing the application under the protection of Title 1, M.R.S.A., Section 302. The formal review process shall begin upon written notification to the applicant that a complete application has been received.

F. Site Inspection:

1. The Planning Board may vote to schedule an on-site inspection of the proposed project. The Planning Board shall schedule the date and time of the site inspection at the sketch plan meeting or at another time. The Planning Board shall post the date, time and place of the site inspection at the Town Office.
2. The purpose of the site inspection is for the Planning Board to obtain knowledge about the site and surrounding area. The Planning Board shall not discuss the merits of the application or render any decision concerning the application during the site inspection.

G. Waivers:

1. The Planning Board may vote to waive any of the review criteria and/or ordinance performance standards when it finds one of the following:
 - a. One or more of the review criteria and /or Ordinance performance standards are not applicable to the proposal due to the size of the project, circumstances of the site, design of the project, or unique features of the proposal.
 - b. The applicant has proposed an alternative design that meets or exceeds the requirements set forth in the performance standards.
2. The applicant shall submit information and materials that support the waiver request with the application.
3. The Planning Board may only consider a waiver request when the applicant has submitted a written waiver request in the application. The first item of the application review shall be a consideration of any waiver request. The Planning Board shall review the request and if it meets the criteria for a waiver, shall approve the request. If the Planning Board finds that the request does not meet the waiver criteria, the Board shall deny the request. The applicant shall amend the application as required if the waiver is not approved by the Board. The Planning Board may vote to suspend review of the application until such time that the applicant provides any information necessary as a result of not obtaining the waiver. In no case shall the Planning Board make a final decision upon the application until the applicant supplies any additional information to the satisfaction of the Board.

H. Subdivision Review Process:

1. All subdivision applicants shall be required to follow a three tier review process as follows:

- Sketch Plan Review
- Preliminary Plan Review
- Final Plan Review

The Planning Board may vote to allow Minor Subdivisions to submit a final plan for review directly after the Sketch Plan Review meeting. The Planning Board shall make this decision after reviewing the sketch plan proposal.

The Planning Board shall hold a public hearing to review the final plan application for a Minor Subdivision.

I. Revisions to Approved Plans

1. An application for a revision to a previously approved plan shall be submitted to the Planning Board at least 7 days prior to a scheduled meeting of the Planning Board. If the revision involves a modification to a condition imposed by the Planning Board; the addition of additional units; the addition of new lots; or an expansion of the subdivision, then the procedure for a new application shall be followed. If the revision only involves minor modifications to the plan, the Planning Board may consider the request at the meeting. The Planning Board may vote to hold a public hearing on the proposed revision.
2. The Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be revised or that are adversely impacted by the proposed revision.
3. The applicant shall submit a copy of the approved plans and 7 copies of the revised portions of the plans. The application shall include enough supporting data to allow the Planning Board to make a decision that the proposed revision meets the review criteria.
4. The Planning Board shall vote to approve the revision, deny the revision or approve the revision with conditions. The Planning Board may vote to require that additional information be submitted in order to ensure that the review criteria are met.

J. As Built-Plans:

1. Upon Completion of all the public improvements contained in the subdivision, the applicant shall submit a copy of as-built plans to the Planning Board. This requirement does not apply to minor subdivisions.

K. Appeals to Superior Court:

1. An aggrieved party may appeal any final decision of the Planning Board under this Ordinance to Superior Court, within 30 days of the date the Planning Board issues a written order of its decision.

L. Public Hearing Requirements:

1. The Planning Board shall hold a public hearing on all preliminary plan applications. The Planning Board may vote to hold a public hearing on a final application.
2. The public hearing notice shall be made as follows:
 - a. The Planning Board shall hold a public hearing within 30 days after determining that the application is complete. A notice of the date, time and place of the public hearing shall be:
 - (1) Published, at least two times, in a newspaper having general circulation in the municipality. The date of the first publication shall be at least 7 days before the hearing.
 - (2) Mailed by first class mail to the applicant, at least 7 days prior to the public hearing.
 - (3) Mailed by first class mail to all property abutters, at least 7 days prior to the public hearing. The Planning Board shall maintain a list of all property abutters and record the date the notice was mailed. Failure of an abutter to receive a notice shall not invalidate the public hearing, nor shall it require the Board to schedule a new public hearing.
3. The Planning Board may vote to continue the public hearing in order to receive additional public comment or information concerning the application. The Board is not required to meet the notice requirements listed above for the continued public hearing.

M. Joint Meetings:

1. If any portion of a proposed subdivision crosses municipal boundaries, the Planning Board shall follow the notice, meeting, and review requirements specified in Title 30-A, M.R.S.A., Sections 4401- 4407.

N. Performance Guarantee:

1. A performance guarantee shall be required for all public improvements proposed for the subdivision. The applicant shall submit a proposal for the performance guarantee at the time of submission of the Final Plan.
2. The performance guarantee may include one of the following:
 - a. A certified check, in an amount equal to the expense of installing the public improvements, made payable to the Town.
 - b. A performance bond, in an amount equal to the expense of installing the public improvements, made payable to the Town, issued by a surety company.

- c. A conditional agreement with the Town, whereby no lot in the subdivision may be sold and no building permit issued until the applicant installs all public improvements.
3. The Planning Board, prior to approval of the final plan, shall consult with the Selectmen on the terms proposed by the applicant for the performance guarantee. The Selectmen may recommend that the amount of the certified check or performance bond or the terms of the performance guarantees be amended or revised. The Planning Board shall consider the recommendation of the Selectman and decide on the contents of the performance guarantee.
4. Prior to the release of the performance guarantee, the Planning Board shall determine that the proposed improvements meet or exceed the design and construction requirements specified in this ordinance and the subdivision plans. The Planning Board shall base its decision upon the inspection reports filed by the Code Enforcement Officer, other Municipal Officials or other designated inspector.
5. Submittal of the, as-built subdivision plans, is a requirement for the release of the performance guarantee.
6. If, the Planning Board, Code Enforcement Officer, or other designated inspection official finds that any of the public improvements have not been constructed in accordance with the plans and specifications filed as part of the application, they shall report this condition to the Selectmen. The Selectmen shall take any steps necessary to preserve the Town's rights.

O. Inspection Requirements:

1. The Code Enforcement Officer shall be responsible for conducting and/or coordinating all inspections with other municipal officials. The following municipal officials shall perform the following inspections:
 - a. The Road Commissioner shall inspect all roads including roads to be considered for public acceptance and private roads and associated drainage systems.
(All roads proposed for public acceptance shall also be inspected by a professional engineer as per the road performance standards contained in this Ordinance)
 - b. The Local Plumbing Inspector shall inspect the installation of all subsurface waste water treatment systems.
 - c. The Code Enforcement Officer shall inspect all erosion control measures, stormwater management features, and all other site features.
2. The applicant shall be responsible for scheduling all inspections with the Code Enforcement Officer . The Code Enforcement Officer and all other inspection officials shall keep a record of all inspections and all deficiencies. It shall be the responsibility of the Code Enforcement Officer to notify the applicant in writing that a deficiency exist and the steps necessary to remedy the situation. The Code Enforcement Officer shall notify the Planning Board and the Selectmen whenever the applicant fails to remedy a deficiency. Upon completion of the subdivision and/or consideration of release of the performance guarantee, all inspection reports shall be made available to the Planning Board and the Selectmen.

Section 5 Sketch Plan Review

A. Purpose:

The purpose of the sketch plan submittal is for the applicant to present general information regarding the proposed subdivision to the Planning Board and to receive the Planning Board's comments prior to the expenditure of substantial sums of money for developing the subdivision plan.

B. Procedure:

1. The applicant shall submit a complete sketch plan application to the Planning Board at least 7 days before a scheduled meeting of the Planning Board.
2. The applicant shall present the sketch plan application to the Planning Board and make a verbal presentation regarding the site and the proposed subdivision.
3. Following the applicant's presentation, the Planning Board may ask questions and make suggestions to be incorporated by the applicant into the application.
4. The Planning Board shall determine the contour intervals to be shown on the plan.
5. The Planning Board shall decide if the proposed subdivision meets the definition of a minor subdivision and if the applicant may submit a final plan for consideration.

C. Submissions:

1. The sketch plan shall show in simple sketch form the proposed layout of roads, lots, buildings, and other features in relation to existing site conditions. The sketch plan does not have to be an engineered plan and may be a free-handed penciled sketch.
2. The sketch plan shall be submitted on the application forms provided by the Planning Board and include the following:
 - a. A copy of the Tax Assessors map of the site and surrounding area.
 - b. A copy of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.
 - c. A copy of the County Soil Survey showing the area of the proposed subdivision.
 - d. A map showing the watershed in which the subdivision is located.

Section 6 Preliminary Plan Review

A. Procedure:

1. The applicant shall, at least 10 days prior to a scheduled meeting of the Planning Board, submit a complete preliminary plan application to the Town Clerk and/or the Planning Board Secretary. The applicant shall be issued a dated receipt and the preliminary plan application shall be placed on the Planning Board's agenda in order to review for a complete application.
2. The application shall consist of 3 complete copies including all maps and related attachments. The Planning Board shall receive 2 copies and one shall be placed in the Town Office for public review.
3. As soon as possible, after the receipt of the preliminary plan the Town shall notify by first class mail all abutters to the proposed subdivision that an application for a subdivision has been submitted to the Planning Board, specifying the location of the proposed subdivision and including a general description of the project. The notice shall also indicate that a copy of the application is available for public review at the Town Office. The Planning Board shall maintain a list of all abutters notified by first class mail, specifying the date the notice was mailed.
4. Within 30 days of the receipt of the preliminary plan application, the Planning Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the board shall notify the applicant of the specific material needed to complete the application.
5. The Planning Board shall hold a public hearing within 30 days of determining that it has received a complete application.
6. Within 30 days of the public hearing, or within another time period as may be mutually agreed to by the Board and the applicant, the Planning Board shall make a decision on the application.
7. Upon approval of the preliminary plan, the applicant is eligible to submit a final plan to the Planning Board for consideration. The approval of the 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 preparation of the final plan. The final plan shall be submitted for consideration upon fulfillment of the requirements of this Ordinance and conditions of preliminary approval, if any.

B. Preliminary Plan Submissions:

1. The applicant is responsible for supplying all the necessary information to show that the proposed subdivision is in compliance with the review criteria, and requirements and performance standards contained in this Ordinance. The preliminary plan submissions shall consist of the following:

- a. A receipt from the Town indicating that the application fee has been paid.
- b. A preliminary plan application form and all required attachments and maps.
- c. Waiver request form, if applicable.
- d. A location map, drawn at an appropriate scale to show the relationship of the proposed subdivision to adjacent properties. The map shall show the following:
 - (1) Existing subdivisions in the proximity of the proposed subdivision.
 - (2) Locations and names of existing and proposed roads.
 - (3) Boundaries and designations of all shoreland zoning and other land use districts.
 - (4) An outline of the proposed subdivision and any remaining portion of the owner's property if not included in the subdivision proposal.
- e. The following general information:
 - (1) Name and address of the applicant and applicant's agent.
 - (2) Verification of right, title or interest in the property.
 - (3) A copy of the most recently recorded deed for the parcel.
 - (4) A copy of all existing and proposed, deed restrictions, rights-of-way, or other encumbrances affecting the property.
 - (5) The book and page and Map and lot information of the property.
 - (6) The names of all property owners abutting the property.
 - (7) Acreage of the proposed subdivision and acreage of any land not included in the subdivision to be retained by the owner,
- f. A subdivision plan consisting of one or more maps drawn to a scale of not more than 100 feet to the inch. The plan shall show the following:
 - (1) Name of the subdivision.
 - (2) Number of lots.
 - (3) Date, north point, graphic scale.
 - (4) Proposed lot lines with dimensions.
 - (5) A survey of the perimeter of the tract, giving complete descriptive data by bearing and distances, made and certified by a Registered Land Surveyor. The corner of the tract shall be located on the ground and marked by permanent markers. The plan shall indicate the type of permanent marker proposed to be set or found at each lot corner.
 - (6) Contour intervals as specified by the Planning Board.
 - (7) The location of all wetlands regardless of size.
 - (8) The location of all rivers, streams, brooks and ponds within or adjacent to the subdivision.
 - (9) The location of all slopes in excess of 20% slope.
 - (10) The number of acres within the subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing features.
 - (11) The location of any significant sand and gravel aquifers,
 - (12) The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the Town's most recent FIRM Map.
 - (13) The boundaries of all shoreland zoning districts.
 - (14) The location and boundaries of any significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife.

- (15) The location of any site or structure listed on the National Register of Historic Places or any archeological site identified by the State Historic Preservation Commission.
 - (16) The location of all scenic areas and rare and endangered plants as identified in the Town's Comprehensive Plan.
 - (17) The location of all subsurface wastewater disposal system test pits/test borings and test data and appropriate documentation.
 - (18) The location of all existing and proposed wells and appropriate documentation.
 - (19) All temporary and permanent erosion control features proposed for the site.
 - (20) All stormwater control hydrology and mitigation design features proposed for the site.
 - (21) All parcels of land proposed to be owned or held in common or joint ownership by the subdivision or individual lot owners. All land proposed to be offered for public acceptance to the Town.
 - (22) Phosphorus control measures, if the subdivision is located within the direct watershed of a great pond.
 - (23) Road plans and specifications and appropriate documentation.
 - (24) Traffic access data for the site including an estimate of the amount of vehicular traffic to be generated on a daily basis.
 - (25) The type and location of any proposed fire control features, and appropriate documentation.
 - (26) A list of all proposed deed covenants and restrictions on the plan.
- g. A statement indicating how the solid waste from the subdivision will be handled.
 - h. Documentation indicating that the applicant has the financial and technical capacity to meet the requirements of this Ordinance.
 - I. Any other data necessary in order to meet the requirements of this Ordinance.

Section 7 Final Plan Review

A. Procedure:

1. The applicant shall, at least 10 days prior to a scheduled meeting of the Planning Board, submit a complete final plan application to the Town Clerk and/or Planning Board Secretary. The applicant shall be issued a dated receipt and the final plan application shall be placed on the Planning Board's agenda in order to review for a complete application.
2. The application shall consist of 2 stable-based transparencies and 3 paper copies. The planning Board shall receive 2 original transparencies, and two paper copies. One paper copy shall be placed in the Town Office for Public review.
3. Within 30 days of the receipt of the final plan application, the Planning Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the board shall notify the applicant of the specific material needed to complete the application.
4. The Planning Board may decide to hold a public hearing on the proposed final plan. The Planning Board shall schedule a public hearing or a meeting to review the final plan within 30 days of determining that it has received a complete application.
5. Within 30 days of the public hearing or meeting, or within another time period as may be mutually agreed to by the Board and the applicant, the Planning Board shall make a decision on the application.
6. Upon voting to approve the final plan, the Planning Board shall sign the 2 stable-based transparencies. The Planning Board shall retain one copy and the other shall be provided to the applicant. The applicant shall file the approved final subdivision plan with the Register of Deeds, within 90 days of the date upon which the plan is approved. Failure to file the plan with the Register of Deeds, within 90 days, shall make the plan null and void. Final Plans not filed in the appropriate time period shall be re-submitted to the Board according to the requirements of Section 7 of this Ordinance.

B. Final Plan Submissions:

1. The applicant is responsible for supplying all the necessary information to show that the proposed subdivision is in compliance with the review criteria and requirements and performance standards contained in this Ordinance. The final plan submissions shall consist of the following:
 - a. A receipt form the Town indicating that the application has been paid.
 - b. A final plan application form and all required attachments and maps.
 - c. All the submission materials required for a preliminary plan.
 - d. All conditions and modifications approved by the Planning Board for the preliminary plan shall be contained on the final plan.
 - e. All waivers approved by the Planning Board shall be shown on the final plan.
 - f. All additional studies and/or materials required by the Planning Board, as applicable.

- g. A signature block shall be provided on the final plan.
- h. A performance guarantee, if applicable.
- i. The location and type of all permanent markers set at all lot corners.
- j. If the subdivision contains any private roads, the plan shall contain a statement as follows: The subdivision roads are designed as private roads are not eligible for acceptance by the Town of Fayette, unless the road is improved to meet the appropriate standards for road acceptance.
- k. Written copies of any documents of land dedication, and written evidence that the Board of Selectmen are satisfied with the legal sufficiency of any documents accomplishing such land dedication.
- l. Any conditions placed on the final plan by the Planning Board shall be clearly listed on the plan. Planning Board imposed conditions shall be listed separately from any conditions or restrictions placed on the subdivision by the applicant.

Section 8 Performance Standards

A. The performance standards contained in this section shall apply to all subdivision proposals in the Town of Fayette.

B. General Lot Requirements:

1. The following general lot requirements shall be considered as minimum standards and shall not be eligible for a waiver.

a. All lots shall meet the following dimensional standards:

Minimum Lot Size	1 acre (100,000 square feet if located wholly or in part in an aquifer)
Minimum Road Frontage	200 feet
Maximum Lot Depth to Width Ratio	5 : 1
Side Property Line Setback	15 feet
Rear Property Line Setback	15 feet
Front Setback (measured from the road centerline)	75 feet
Multi-Family Density Standards	1 acre plus 20,000 Square Feet for each dwelling unit

b. Land located in the following areas shall not be used to calculate the required minimum lot size: wetlands; rivers; streams; brooks; stormwater drainage features; resource protection areas as defined in the Town's Shoreland Zoning Ordinance; slopes in excess of 20%; areas within the floodway as defined in the Town's Floodplain Management Ordinance; and, areas within public and private rights-of way.

C. Monuments:

1. Monumentation as required by the Maine Board of Registration of Land Surveyors shall be installed at the following:

- a. At all road intersections and points of curvature, but no farther than 750 feet apart along road lines without intersections or curves.
- b. At all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less.
- c. At all other subdivision boundary corners and angle points as well as lot boundary corners and angle points.

D. Water Supply:

1. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of pollution. The lot design shall permit the placement of wells, subsurface wastewater disposal systems and reserve areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
2. The water supply for the subdivision and each lot shall be adequate to supply all the potable, and other water requirements of the development. The applicant shall submit documentation from a Hydrologist or a Well Driller familiar with the area, stating that adequate water is available to supply the subdivision.

E. Fire Protection:

1. The subdivision shall be designed so that the Town of Fayette Fire Department shall have unrestricted access to all developed areas within the subdivision and adequate provisions are made for a supply of water for fire suppression. The applicant shall review the proposed subdivision with the Fire Chief and shall obtain a written statement from the Fire Chief approving the plan's fire protection measures. This statement shall be submitted with the preliminary plan application.
2. The Fire Chief in making his/her determination that adequate provisions are made for fire protection shall consider the following:
 - a. The road is adequate for the passage of fire equipment.
 - b. An adequate water supply is available near or within the subdivision to serve the density of the development.

The Fire Chief shall approve the fire protection measures proposed for the subdivision or shall make specific recommendations to improve the fire protection measures. In making recommendations the Fire Chief may recommend the installation of fire ponds or other similar features.

F. Subsurface Wastewater Disposal Systems:

1. The applicant shall submit evidence of site suitability for subsurface wastewater disposal system prepared by a Licensed Site Evaluator or Soil Scientist in compliance with the Subsurface Wastewater Disposal Rules of the State of Maine. All test pit/test boring locations shall be shown on the subdivision plan and be accompanied by a HHE-200 Form or other format which shows the appropriate soils data. Test pit/test boring locations shall also be marked on the site. Test borings using an auger or a soil core sample shall be performed solely by a soil scientist.
2. The applicant shall submit the test pit/test boring data to the Town of Fayette LPI for review. The LPI shall review the data for conformance with State Law and this Ordinance and issue the applicant a written statement. The LPI shall state whether that the data submitted is sufficient to make a reasonable determination that the soils will accommodate a subsurface system or indicate if additional data or site analysis is needed. The applicant shall submit the LPI's statement with the preliminary plan application.

3. In no instance shall a disposal area for a lot or structure require a New System Variance from the Subsurface Wastewater Disposal Rules. Holding tanks systems shall not be allowed to serve new lots or structures.

G. Erosion Control:

1. All activities which involve filing, grading, excavation or other similar activities which result in unstabilized soil conditions shall comply with the following:
 - a. The site shall be developed so as to prevent soil erosion from entering waterbodies, wetlands, stormwater drainage features, and adjacent land. All temporary and permanent erosion control measures shall be designed in accordance with the current edition of "Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environment Protection, March 1991.
 - b. All temporary and permanent erosion features shall be shown on the subdivision plan. Provisions for the maintenance of both temporary and permanent measures shall be included on the plan.

H. Phosphorus Control:

1. The following standards for phosphorus shall apply to all subdivisions located in the direct watershed of a great pond.
2. A phosphorus control plan shall be developed in accordance with the design criteria contained in the current edition of "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development", published by the Maine Department of Environmental Protection, revised September, 1992.
3. The size and location of proposed developed and disturbed sites on each lot shall be shown on the plans based upon the phosphorus and stormwater control plan for the subdivision.

I. Stormwater Control:

1. All construction and development shall be designed to minimize storm water runoff from the site. Where possible existing natural runoff control features shall be retained in order to reduce runoff and encourage infiltration. A storm water control plan shall be developed for the site according to the following standards:
 - a. A storm water control plan shall be developed to limit peak discharges from the site to predevelopment levels through a system of swales, culverts, and best management practices equivalent to those described in the current edition of "Stormwater Management for Maine: Best Management Practices", published by the Maine Department of Environmental Protection, 1995.
 - b. Peak discharges shall be limited to the predevelopment levels for the 2-year, 10-year and 25-year frequency, 24-hour duration storm.
 - c. A storm water control plan that is developed according to the requirements of the Department of Environmental Protection Regulations, Chapter 500, Stormwater Management and Chapter 502, Direct Watersheds of Waterbodies Most at Risk from New Development shall be deemed to be a suitable equivalent to these standards.

- d. Road culverts shall be designed to handle a 25 to 50 year storm frequency.
- e. The size and location of proposed developed and disturbed sites on each lot shall be shown on the plan based upon the phosphorus and stormwater control plan for the subdivision.

J. Waterbody Protection:

- 1. The locations of all rivers, streams, brooks, and wetlands shall be identified on the subdivision plan. This shall include all perennial and intermittent streams and forested and non-forested wetlands.
- 2. Waterbodies shall not be developed or disturbed unless the applicant can provide evidence that no other alternative exist. Any development planned within 50 feet of the high-water line of any waterbody including the upland edge of a wetlands shall require a plan which includes the following:
 - a. A description of the proposed development including the reasons why this is the only alternative.
 - b. Construction drawings of the disturbance area showing all structures, fill areas, vegetative disturbance, and erosion control measures.
 - c. A list of state and federal permits required, if applicable.

K. Ground Water:

- 1. Any development proposed within a Sand and Gravel Aquifer as identified in the Town's Comprehensive Plan, shall be designed and constructed according to a plan which takes into account the impact of the development upon the aquifer.
- 2. The Planning Board may require the applicant to have the plan developed by a hydrologist which shows that the proposed development will not have an adverse impact upon the aquifer. The Planning Board, in making the determination that a plan be required, shall consider the density of the development, and existing conditions or problems within the area.

L. Historic, Archeological, Wildlife Habitat, Scenic Areas, and Rare and Natural Areas:

- 1. The subdivision plan shall show the locations of any historic and archeological sites, wildlife habitat, scenic areas and rare and natural areas. If any of these areas are located on the site, a protection plan shall be developed in accordance with the following:
 - a. If any portion of the site is designated as a significant archeological or historic site by the Maine Historic Commission, Comprehensive Plan, or listed on the National Register of Historic Places, the applicant shall develop appropriate measures for the protection of these resources according to local, state and federal regulations.
 - b. If any portion of the site is located within an area designated as a scenic area or a unique natural area by the Maine Natural Areas program of the Comprehensive Plan, the applicant shall develop appropriate measures for the preservation of the values which qualify the site for such designation.

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

- (1) habitat or endangered species appearing on the official state or federal list of endangered or threatened species.
- (2) High or moderate value waterfowl and wading bird habitats as defined by the Maine Department of Inland Fisheries and Wildlife.
- (3) Deer wintering areas as identified by the Maine Department of Inland Fisheries and Wildlife.

M. Financial and Technical Capacity:

- 1. The applicant shall submit evidence that he/she has adequate financial and technical capacity to design and construct the development in accordance with all applicable local, state and federal laws and regulations. Evidence of adequate financial and technical capacity shall consist of the following:
 - a. A list of all technical and professional staff involved with the proposal and preparation of the application including their qualifications and past experience with projects of similar size and scale.
 - b. A list of all persons with inspection and oversight responsibilities for the development and if available, the persons selected to construct the project, including their qualifications and past experience with projects of similar size and scale.
 - c. A letter from a financial institution such as a bank or other lending institution that states that the applicant has the necessary funds available or a loan commitment from this institution to complete the proposed development within the time period specified by the applicant.

N. Conformity With All Other Applicable Local Ordinances:

- 1. The applicant shall show that the subdivision meets all other applicable local ordinances including Shoreland Zoning, Floodplain Management.

O. Road and Traffic Access Standards:

- 1. The purpose of the road and traffic access standards are to:
 - a. To establish minimum specifications for all public and private roads.
 - b. To establish procedures and standards for the acceptance of a public road.
 - c. To establish a review and inspection procedure for public and private roads.
 - d. To establish design and construction standards for safe traffic access.
 - e. To establish minimum standards for traffic safety and the carrying capacity of roads.
 - f. To establish standards for roadway drainage systems.
 - g. To establish standards for road durability and a reasonable service life.

2. General Requirements

- a. Access to a maximum of 2 dwelling units may be provided by a driveway meeting the following requirements:
 - (1) The driveway shall serve not more than 2 dwelling units.
 - (2) The driveway shall have a minimum travel width of 12 feet.
 - (3) A turn-around area shall be provided for every portion of the driveway in excess of 800 feet in length.
 - (4) The driveway shall be upgraded to conform to the road standards whenever more than 2 dwelling units are proposed to be accessed by the driveway. It shall be the sole responsibility of the property owners to make all necessary improvements.
 - (5) The driveway shall provide the necessary road frontage requirement for the dwelling units served by the driveway.
 - (6) The driveway shall be considered a private way and shall not be considered for public acceptance.
- b. A road meeting one of the road categories shall be constructed to access 3 or more dwelling units.
- c. All roads shall be considered as public improvements and shall require a performance guarantee as per the requirements of this Ordinance.
- d. The type of road constructed shall be determined by the number of dwelling units proposed to be served by the roadway. (See road category definitions for information)
- e. The only roads eligible for consideration for public acceptance shall be classified as a collector road or local road and shall have a bituminous pavement surface. Roads proposed for public acceptance shall also meet the inspection requirements of this section.
- f. All roads shall be constructed according to the standards and requirements listed in this section.
- g. A dead-end road defined as having only one access to an existing public road shall not serve more than 20 dwelling units. A road shall have at least two access points to an existing public road in order to serve more than 30 dwelling units. Each dead-end road shall be provided with one of the turn-around's as shown in Appendix A.

3. Road Drainage Requirements

- a. All roads shall have adequate drainage structures which shall be designed in accordance with the stormwater management plan as specified in sub-section I Stormwater Control of this Section.

4. Road Access Standards

- a. The road providing access to the development and any other road that can be expected to carry traffic for the subdivision shall have an adequate traffic carrying capacity to accommodate the proposed use. The road shall be improved as necessary to accommodate the traffic requirements of the subdivision. All necessary improvements shall be made at the expense of the subdivider.
- b. Roads that access onto a State Road shall comply with all applicable Maine Department of Transportation (MDOT) design requirements. The applicant shall submit a letter or other documentation to the planning Board that the MDOT has approved the road access design.
- c. The road access shall be located and designed in profile and grading to provide the required sight distance measured in each direction. Sight distance shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curbline or edge of the shoulder, with the height of the eye 3 ½ feet, to the top of an object 4 ½ feet above the pavement. A minimum sight distance of 10 feet for each mile per hour of posted speed limit shall be provided.
- d. The road access shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from the gutter line on a straight slope of 3% or less for at least 75 feet.
- e. Accesses shall be either one-way or 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 60 degrees.
- f. The curb radii will vary depending if the access has a one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with the preferred radius of 30 feet. on one-way access, the curb radii shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.
- g. On a two-way access the width shall be between 24 and 26 feet, with a preferred width of 26 feet. On a one-way access the width shall be between 16 feet and 20 feet, with a preferred width of 16 feet.
- h. On a two-way access the curb-cut width shall be between 74 feet and 110 feet, with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet, with a preferred width of 50 feet.
- i. Appropriate traffic control signage shall be erected at the intersection of the access and the street.
- j. Corner clearance shall be measured from the point of tangency for the corner to the point of tangency for the access. The maximum corner clearance, based upon site conditions should be provided. The minimum corner clearance shall be 50 feet.
- k. All roads with access onto an existing paved state or local road shall be paved with bituminous pavement a minimum distance of 75 feet as measured from the edge of the existing road onto the proposed road.

5. Road Categories

- a. The type of road proposed for the subdivision shall be selected according to the following road classification definitions which are based upon the number of dwelling units to be served by the road.
 - (1) Collector Road is designed more than 30 dwelling units.
 - (2) Local road is designed to serve between 10 and 29 dwelling units.
 - (3) Rural road is designed to serve between 1 and 9 dwelling units.
- b. The applicant may choose to construct a road that exceeds minimum design category.
- c. The Planning Board shall review the type of road selected by the applicant to ensure that the road will be capable of accommodating future expansion of the subdivision. The Planning Board shall consider the following in its review:
 - (1) Particular conditions of the site do not allow for future expansion.
 - (2) A phase build-out of the subdivision is proposed.
 - (3) The applicant owns or has retained land adjacent to the subdivision with future development potential.

The Planning Board may after reviewing the particular site conditions; require that a road be constructed to a road category that is more suitable to the potential build-out of the site.

Please Note:

Only roads designed and constructed as a collector or local road with a bituminous pavement surface shall be eligible for consideration for public acceptance. Any road not conforming to this requirement shall be a private road.

6. Road Design Standards

- a. The road design standards for each type of road type are listed in Appendix B. These standards shall be considered as minimum requirements.
- b. The applicant shall submit detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed road. The plan shall be at a scale of one inch equals no more than 50 feet. The vertical scale shall be one inch equals no more than 5 feet. The plan shall include the following information:
 - (1) Date, scale and north point.
 - (2) Intersections of the proposed road with existing roads.
 - (3) Roadway and right-of-way limits, including edge of pavement and edge of shoulder.
 - (4) Kind, size, location, material, profile and cross section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
 - (5) Complete curve data shall be indicated for all horizontal and vertical curves.
 - (6) Turning radii at all intersections.
 - (7) Centerline gradients.
 - (8) Size, type and locations of all existing and proposed utilities.

- c. Before any clearing is started in the right-of-way, the centerlines and sidelines of the road shall be flagged or staked at 50 foot intervals. The entire travel way including shoulders shall be cleared of all stumps, roots, brush and other materials. All organic and unsuitable materials shall be removed from the road sub-grade. All rocks and boulders visible at the subgrade and exceeding 6 inches in size shall be removed. Except in a ledge cut all side slopes shall be no greater than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed and seeded.

7. Inspection Requirements for Roads Proposed for Public Acceptance

- a. In addition to the inspection requirements listed in Section 4, sub-section O, of this Ordinance, all roads proposed to be considered for public acceptance shall meet the following inspection requirements:
 - (1) The applicant shall at his/her expense hire a Professional Engineer licensed in the State of Maine to inspect the roadway construction. The engineer shall inspect the roadway during construction and certify in writing that the road was installed according to the subdivision plans and the requirements of this Ordinance.
 - (2) The applicant shall submit to the Selectmen and the Planning Board, the engineer's report certifying that the road meets or exceeds the subdivision plan and Ordinance requirements.
 - (3) Upon receipt of the engineer's certification and the inspection report from the Code Enforcement Officer and the Road Commissioner, the Selectmen may consider presenting to the Town meeting a warrant for public acceptance of the road.

P. Recreational Access Standards

- 1. Outdoor recreational access is an important feature of Fayette's rural heritage and all subdivision proposals consisting of more than 4 lots shall provide for the continued enhancement and development of a variety of outdoor recreation opportunities. Since new subdivisions and the associated housing and other development they foster can compete with existing open space, scenic and other attributes of rural communities, it shall be the responsibility of each new subdivision to provide for outdoor recreation. A recreation plan designed to serve the subdivision residents shall be developed according to the requirements listed below.
- 2. Since subdivision proposals vary in size, density, design and location a variety of options shall be offered for the development of the recreation plan. The subdivision proposal shall be deemed to meet the requirement for providing recreation if they conform to one of the following :
 - a. A minimum of 10% of the land within the subdivision is dedicated for open space. Suitable easements and/or deed restrictions shall be proposed to preserve the land from development. The land shall not include areas described in Section 8, sub-section B.1.b.

- b. A parcel of land consisting of at least 2 acres and having a minimum of 200 feet of shore frontage on a great pond is dedicated for recreation. The parcel shall be suitable for at least one of the following boat access or swimming. Trails, rights-of-way or other similar easements shall be provided so that residents can access the parcel.
- c. A multi-purpose trail system which can be reasonably accessed by each proposed subdivision lot is constructed. The trail should be designed to accommodate walkers, cross-country skiing and snowmobiles. Whenever possible the trail should provide a link to existing trails and snowmobile routes.
- d. An active recreation area consisting of at least two of the following:
 - Playground for small children
 - Baseball field
 - Tennis court (minimum of 2 courts)
 - Basketball court (full size court)
 - Multi-purpose field
- e. Combination of recreational options. The applicant may propose to offer a combination of recreational sites consisting of a portion of some of the options listed above. The Planning Board shall review this combination option to ensure that the intent of these section is met.

Example:

An applicant may propose to construct a playground and dedicate 5 % of land for passive recreation.
- f. A payment into the Town of Fayette Recreational Development Fund to be used exclusively for the purchase or development of new or existing parks, playgrounds and other recreational facilities. The amount of such payment shall be \$500.00 for each lot approved on the final plan. (This option is subject to the creation of the recreational Development Fund by the Town of Fayette.)

3. Land for the recreational sites may be offered to the Town for public acceptance or may be owned in common by the subdivision lot owners. The applicant may also propose to dedicate the recreation areas to a third party that is incorporated for the purpose of maintaining land for conservation and preservation use.

All land proposed for recreation purposes shall be protected by a suitable deed restriction that prohibits development and preserves the land for future inhabitants.

All recreational areas to be owned in common shall include a maintenance plan and mandatory association agreement in each of the subdivision lot deeds.

The Planning Board shall review all proposed ownership arrangements to ensure that the long-term maintenance and preservation of the recreational sites is provided.

Q. Agricultural and Forest Resources

1. Whenever a proposed subdivision is located adjacent to an active farm, pasture field, a woodlot listed under Tree Growth or a productive forest site, suitable provisions shall be incorporated in the subdivision proposal to minimize future conflicts between residential sites and agriculture, forestry operations.
2. Provisions to reduce conflicts between residential and activities of a working rural landscape shall be proposed based upon the size, density and site conditions of the particular subdivision. Some possible options include:
 - a. A mandatory structure set-back of 100 feet from the farm or forest site.
 - b. A vegetative buffer along property lines.
 - c. Location of homes away from the farm or forest.
 - d. A disclosure notice, included in the deed for each lot, to inform the new landowner that agricultural and forest activities generate noise, dust and odors.

R. Rural Design and Landscape Standards for Public Scenery

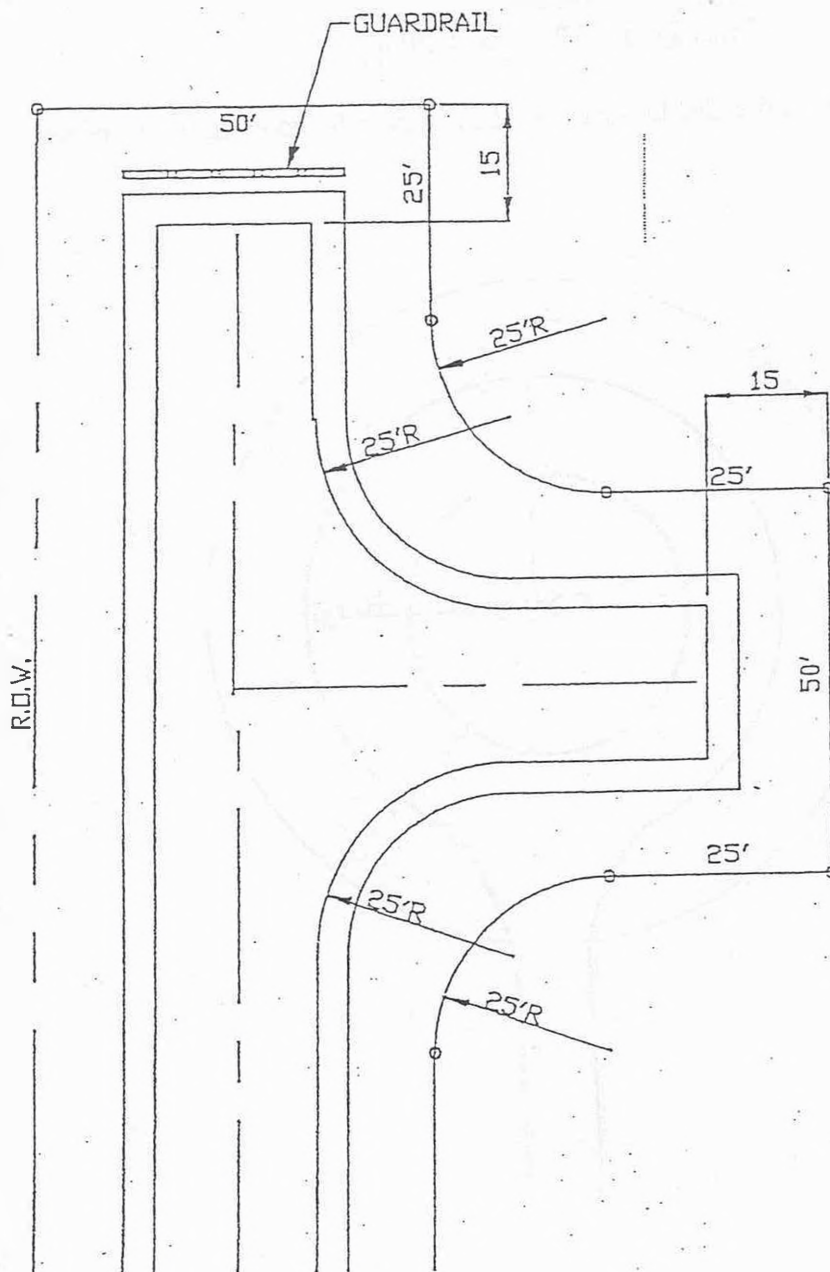
1. Each subdivision proposal shall include a landscape or scenic preservation plan which shows how the lots, building sites, structures and roads preserve the existing rural character of the community. The plan shall incorporate the following standards into the overall development of the subdivision:
 - a. Building sites shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas.
 - b. Road and lot layout shall be adapted to the existing topography.
 - c. Existing trails shall be preserved.
 - d. Existing vegetation along front, side and rear lot property lines shall be preserved.
 - e. Lots shall be designed so as to enhance the privacy and rural atmosphere of the development.
 - f. Trees located along the roads shall be preserved to the greatest extent possible in order to maintain a rural landscape corridor.
 - g. Existing vegetation along all streams, ponds, wetlands shall be preserved.
 - h. Prime farmland soils as identified in the comprehensive plan shall be preserved to the greatest extent possible.

SECTION 9. ENFORCEMENT

- A. It shall be the responsibility of the Code Enforcement Officer to enforce the provisions of this Ordinance.
- B. No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Planning Board in accordance with this Ordinance.
- C. A person shall not convey, offer to convey any land in a subdivision which has not been approved by the planning Board and recorded in the Registry of Deeds.
- D. A person shall not sell, lease, offer or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- 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 Planning Board.
- F. Development of a subdivision without Planning 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 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 road upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot.
- H. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A, M.R.S.A. ss.4452.

APPENDIX A

TYPICAL "L" SHAPED TURN-AROUND DETAIL

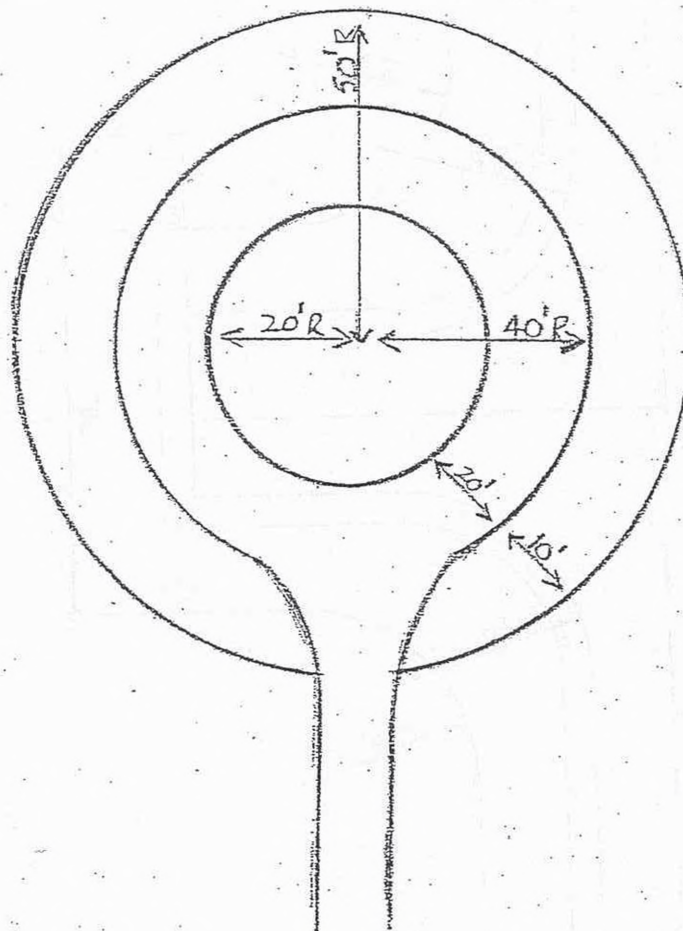


TYPICAL CUL-DE-SAC DETAIL

The Cul-De-Sac turnaround shall be constructed with the following requirements for radii:

- Property Line: 50 feet
- Outer Edge of Pavement: 40 feet
- Inner Edge of Pavement: 20 feet

The center of the Cul-De-Sac shall be reserved for existing or proposed vegetation.



APPENDIX B

ROAD CONSTRUCTION STANDARDS TABLE 1.

	Collector Road	Local Road	Rural Road
Right-of-way width	60 ft	50 ft	50 ft
Travel way width	22 ft	20 ft	18 ft
Shoulder width	4 ft	3 ft	3 ft
Minimum grade (centerline)	.5%	.5%	.5%
Maximum grade (centerline)	5%	8%	10%
Minimum center-line radius w/o superelvation	280 ft	280 ft	175 ft
Minimum center-line radius with superelevation	175 ft	175 ft	110 ft
Roadway crown	1/4 inch per foot	1/4 inch per foot	1/4 inch per foot
Minimum angle of road intersection	90 degree	60 degree	60 degree
Maximum centerline grade within 75 ft of intersection	3%	3%	3%
Culverts	minimum 18 inch dia.	minimum 15 inch dia.	minimum 15 inch dia.
Minimum fill slope	3/1	3/1	3/1
Shoulder grade	1/4 inch per foot	1/4 inch per foot	1/4 inch per foot

TABLE 2.

ROAD CONSTRUCTION MATERIALS MINIMUM REQUIREMENTS

		Collector Road	Local Road	Rural Road
Aggregate Base Total Inches		24 inches	18 inches	15 inches
	Subbase course	18 inches	15 inches	12 inches
	Base course	6 inches	3 inches	3 inches
Surface Course for a Gravel Road		4 inches	3 inches	3 inches
Surface Course for a Bituminous Pavement Surface (Total inches)		3 inches	3 inches	3 inches
	Base course	1 3/4	1 3/4	1 3/4
	Surface course	1 1/4	1 1/4	1 1/4

GRAVEL SUBBASE MATERIALS SPECIFICATIONS:

The gravel subbase course shall be gravel of durable particles free from vegetative matter, lumps or balls of clay and other deleterious matter. The gradation of the part that passes a 3 inch square sieve shall meet the grading requirements below. The maximum stone size shall be 6 inches.

SIEVE DESIGNATION	PERCENTAGE BY WEIGHT PASSING SQUARE SIEVE
1/4 INCH	25-70%
No. 40	0-30%
No. 200	0-5%

GRAVEL BASE COURSE SPECIFICATIONS:

The base course shall be crushed gravel of hard durable particles free from vegetative matter, lumps and balls of clay. The gradation of the part that passes a 3 inch square sieve shall meet the grading requirements below.

SIEVE DESIGNATION	PERCENTAGE BY WEIGHT PASSING SQUARE SIEVE
½ INCH	45-70%
1/4 INCH	30-55%
No.40	0-20%
No. 200	0-5%

SURFACE GRAVEL SPECIFICATIONS:

Surface gravel for use on gravel roads shall have no stone larger than 2 inches in size and shall meet the grading requirements below.

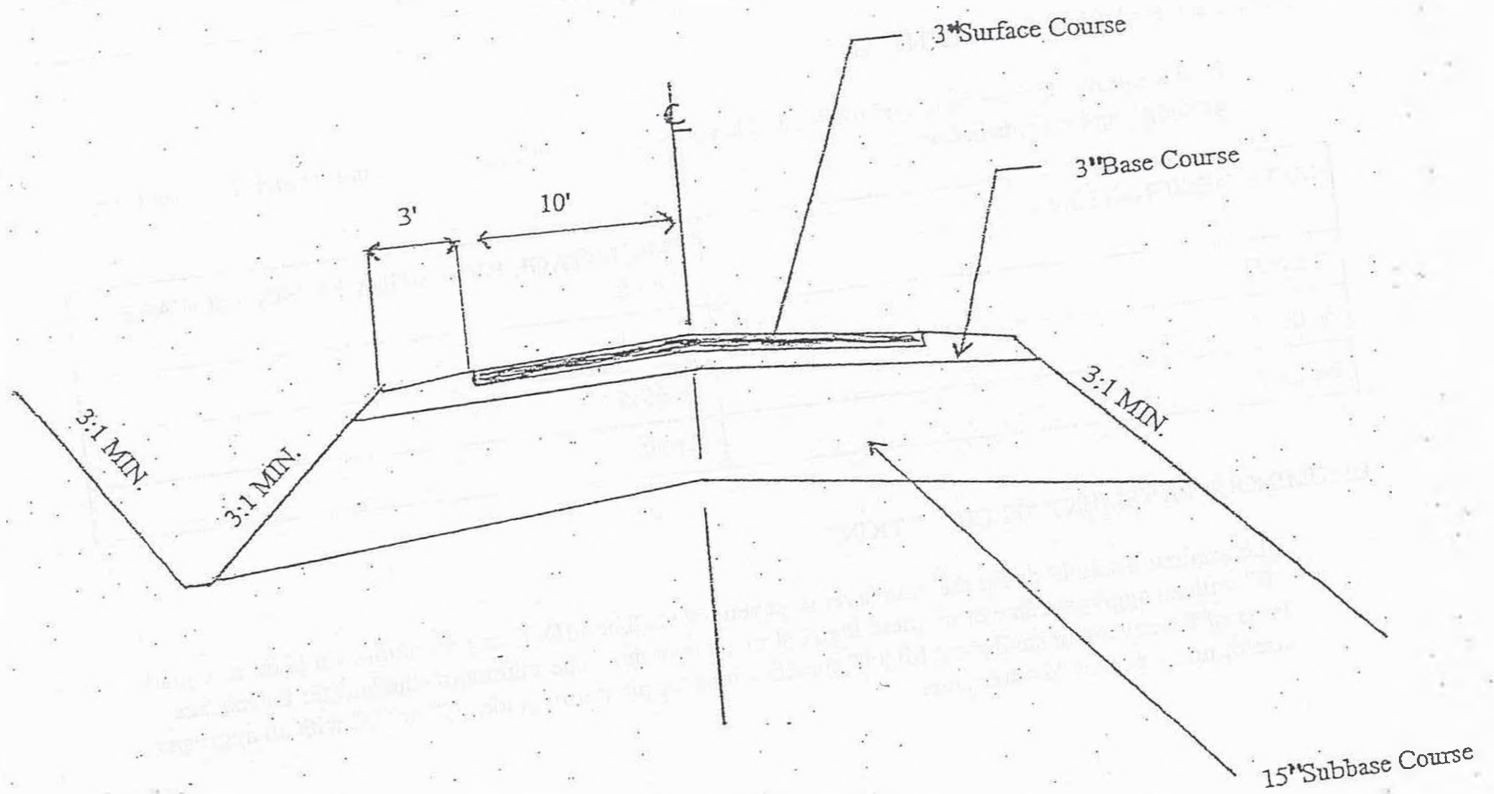
SIEVE DESIGNATION	PERCENTAGE BY WEIGHT PASSING SQUARE SIEVE
2 INCH	95-100%
½ INCH	30-65%
No. 200	7-12%

BITUMINOUS PAVEMENT SPECIFICATIONS:

The minimum standards for the base layer of pavement shall be MDOT specifications for plant mix grade "B" with an aggregate size of no more than 3/4 inch maximum. The minimum standard for the surface layer of the pavement shall meet MDOT specifications for plant mix grade "C" or "D" with an aggregate size of no more than ½ maximum.

TYPICAL ROAD CROSS SECTION

TOWN OF FAYETTE LOCAL ROAD CROSS SECTION



**TRAFFIC ORDINANCE
FOR
THE TOWN OF FAYETTE**

ARTICLE I: GENERAL PROVISIONS

1.1 TITLE

- A. This ordinance shall be known as the "Traffic Ordinance of the Town of Fayette, Maine" and shall, hereinafter, be referred to as the "Ordinance."

1.2 AUTHORITY:

- A. This Ordinance is adopted by the Municipal Officers of the Town of Fayette (hereinafter referred to as "Selectmen") in accordance with the Constitution of the State of Maine, Article VIII-A and 30-A M.R.S.A. §3009.

1.3 PURPOSE:

- A. The Selectmen find that there is a need to protect the health, safety and general welfare of the inhabitants of the Town of Fayette. The purpose of this Ordinance is to promote public safety, facilitate traffic flow and control speed on the travel ways and streets in the Town of Fayette. This Ordinance does not exempt any person from compliance with all other applicable laws and regulations.

1.4 DEFINITIONS:

- A. Words used in this Ordinance shall be defined in accordance with 29 M.R.S.A. §1; any undefined word shall have its common, ordinary meaning.

1.5 SEVERABILITY.

- A. In the event that any section, subsection or provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, that declaration shall not be deemed to affect the validity of any other section, subsection or provision of this Ordinance. To this end, the provisions of this Ordinance are hereby declared to be severable.

AS APPROVED BY THE BOARD OF SELECTMEN
JUNE 15, 2009

ARTICLE II: PARKING RESTRICTIONS:

2.1 PARKING IN EXCESS OF TWENTY FOUR HOURS; NOTICE TO MOVE; REMOVAL BY TOWN.

- A. It shall be unlawful to leave a motor vehicle parked on a public way or in a municipal parking lot for a period in excess of twenty-four (24) hours without permission of the Town Manager or Road Commissioner. If a vehicle is parked in violation of this section, a notice shall be placed on the windshield of such vehicle ordering its removal within twenty-four (24) hours. If after the expiration of such notice the vehicle is still in violation of this section, such vehicle may be removed in accordance with the provisions of this article.

2.2 POSTED RESTRICTIONS.

- A. No person may park a motor vehicle on any public way or portions of public way, where "No Parking" signs or signs bearing substantially similar language have been erected by the municipality.

2.3 SNOW AND ICE REMOVAL.

- A. No person shall park or permit a vehicle to remain parked on any street in the Town between the hours of 12:00 A.M. and 7:00 A.M. from November 15 to April 15, since such parking may interfere with snowplowing or the loading or removal of snow from such street.

2.4 STOPPING NOT TO OBSTRUCT ROAD OR CROSSING, OBEDIENCE TO POLICE OFFICER;

- A. No vehicle shall stop in such a way as to obstruct any street or crossing except for the purpose of taking on or letting off a passenger, or for loading or unloading freight, for a period of up to one (1) minute, or except in case of accident, or when directed to do so by a police officer.
- B. No person shall fail to stop or place his vehicle as directed by a police officer on duty.
- C. No vehicle, except for an emergency vehicle on an emergency call, or any authorized construction vehicles involved in actual construction, repair or re-paving, shall stop, stand or park in such a way as to obstruct any arterial street or way.

2.5.1 STOPPING AT INTERSECTIONS AND HYDRANTS.

- A. No vehicle shall stop or stand within the intersection of any streets or within ten (10) feet of a street corner, nor within seven (7) feet of any

hydrant wherever located; provided, however, that the foregoing provisions of this section shall not apply to the United States mail, emergency and public utility vehicles.

2.6 PARKING CLOSE TO FIRES.

- A. No person shall park a vehicle, with or without occupants, other than a fire or police vehicle or an ambulance, on a public highway within one hundred (100) yards of a fire in which fire personnel are engaged.
- B. If a vehicle parks more than one hundred (100) yards from the fire and within one-quarter mile thereof, it shall park on the right-hand side of the highway and parallel to and within two (2) feet of the curb or edge of the highway.

2.7 EXCEPTIONS TO PARKING REGULATIONS FOR REGULAR WORSHIP SERVICES.

- A. Notwithstanding any other provisions other Ordinances regarding parking bans, parking shall be allowed in the immediate area of places of worship one-half (1/2) hour before services until one-half (1/2) hour after services on Saturday or Sunday on all city streets except for on State Numbered Routes where parking is prohibited, on crosswalks, in the immediate area of fire hydrants, and on streets where parking is prohibited because the width of the street will not allow firefighting equipment to travel over the street if vehicles were parked on same.

State law references: Parking on paved or improved portions of ways, 29 M.R.S.A. § 1111; municipal authority to regulate the parking of motor vehicles, 30-A M.R.S.A. § 3009(1)(c).

2.8 SCHOOL FIRE LANES.

- A. In the interest of providing proper safety services to school buildings within the city, the Fire Chief or designee, in conjunction with the Superintendent of Schools or designee, is hereby authorized to establish fire lanes at and around school buildings within the city; such fire lanes shall be clearly marked with signs indicating the existence of the fire lane and the prohibition against parking in same.
- B. Any vehicle found to be parked, standing or in any other way blocking any designated fire lane shall be in violation of this article and as such shall be subject to a fine of fifteen dollars (\$15.00) for each offense and, in addition, any vehicle in violation may be removed and impounded as provided for in section 2.11.

2.9 PRESUMPTIVE EVIDENCE OF UNLAWFUL PARKING.

- A. Whenever in this Ordinance it is provided that it shall be unlawful for a person to park a vehicle, the fact that a vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered.

2.10 WAIVER OF COURT ACTION; FEE SCHEDULE.

- A. Any person charged with a violation of any parking ordinance may waive all court action by payment of the appropriate current fine for the particular parking violations to the Town Office within five (5) days of the offense. The schedule of fines for parking violations shall be set from time to time and a copy of such schedule is on file in the Town Clerk's office.

State law references: Municipal authority to waive court action upon payment to a fee, 30-A M.R.S.A. § 3009(A)(2).

2.11 REMOVAL OF VEHICLES IN VIOLATION.

- A. Any vehicle of any kind or description parked upon a public street of the Town of Fayette at a place, in a manner, or for a length of time prohibited by an ordinance of the city, or so as to impede the city's snow removal operations or traffic in the public street, is hereby declared to be an obstruction in such street and a menace to the safe and proper operation of traffic.
- B. Any vehicle parked in such a manner as described in this section may be removed by and under the direction of or at the request of the Road Commissioner or the public works foreman to a garage or storage place within the Town of Fayette and impounded therein.
- C. Notwithstanding any language contained herein, the removal and storage of a vehicle pursuant to this section, and the payment of the charges specified in this division, shall in no way relieve or prevent prosecution for the violation of any provisions of the ordinances of the town.

State law references: Similar provisions, 29 M.R.S.A. § 1111.

2.12 PRIMA FACIE EVIDENCE OF OPERATION

- A. No person shall cause, allow or permit a motor vehicle registered in his or her name to park in violation of this Ordinance. The fact that a motor vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person, or with the knowledge or consent of the person, in whose name such vehicle is registered.

ARTICLE III TRAFFIC CONTROL

3.1 CROSSWALKS

- A. Vehicles shall stop for pedestrians in designated pedestrian crosswalks at the following locations:

[M1]

3.2 PASSING VEHICLE STOPPED AT A CROSSWALK

- A. Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.
- B. A marked crosswalk is a crosswalk in the road from curb to curb marked with painted lines.

State law references: Similar provisions, 29 M.R.S.A. § 954.

3.3 FOLLOWING A FIRE APPARATUS

- A. The driver of any motor vehicle shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet.

State law references: Similar provisions, 29 M.R.S.A. § 1033.

3.4 STOP REQUIRED AT STOP SIGN

- A. Except when directed to proceed by a police officer or traffic-control signal, every driver of a motor vehicle approaching a stop intersection indicated by a stop sign or flashing red light shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

3.5 SCHEDULE OF STOP SIGNS

- A. Stop signs shall be erected and maintained in accordance with the following schedule:[M2]

Asa Hutchinson Road
Baldwin Hill Cut
Baldwin Hill Road

Bamford Hill Road
Bamford Pond Road
Fayette Corner Road
Campground Road
Charles Ham Road
Clyde Wells Road
East Road Road
Echo Lake Road
Ellis Road Road
Fayette Ridge Road
Folsom Road
Gail Road
Gile Road
Jackman Mill Road
Jed Davis Road
Knox Road
Limberlost Road
Lovejoy Pond Road
Lovejoy Shores Road
Maple Lane Road
Moose Hill Road
Morris Springer Road
Mosher Pond Road AKA
Chesterville Ridge Road)
North Road
Norton Road
Oak Hill Road
Palmer Road
Philip Davis Road
Richmond Mill Road
Russell Road
Sandy River Road
South Road
South Road Ext
Bog Road
Tom Surrey Road
Watson Heights Road
West Road

3.6.1 DUTY AT YIELD SIGN

- A. The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for existing conditions, or shall stop if necessary and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard. Such driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding; provided, however, that if such driver is involved in a collision with a pedestrian in a crosswalk or a vehicle in the

intersection after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way.

3.7 SCHEDULE OF YIELD RIGHT OF WAY SIGNS

- A. Yield right-of-way signs shall be erected in accordance with the following schedule:[M3]
Jackman's Mill Road onto Route 17

3.8 CLOSING ROADS TO TRAVEL OF CERTAIN TRUCKS

- A. No vehicles registered for a gross weight in excess of twenty-three thousand (23,000) pounds, except exempt vehicles as provided for below, shall be operated on the roads and streets of the city after a road or street has been closed to heavy vehicles during any period of time from November 14 to June 1. The Road Commissioner has the authority to determine which roads and streets shall be closed to heavy vehicles and when such closure shall be in effect.
- B. Notice of closing of a road or street to heavy vehicles shall be given by erecting at each end of the closed road or street a poster indicating the following:
- (1) The date of the posting;
 - (2) A description of the street or road closed;
 - (3) A summary of the vehicles exempt from the closing; and
 - (4) The name, business address and telephone number of the Director of Public Works for the city.
- C. The following vehicles are exempt from this section:
- (1) Any vehicle or combination of vehicles registered for a gross weight of twenty-three thousand (23,000) pounds or less.
 - (2) Any vehicle or combination of vehicles registered for a gross weight in excess of twenty-three thousand (23,000) pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicle. It shall be a defense to alleged violation of this subsection if the combined actual weights of any vehicle or combination of vehicles is registered for a gross weight in excess of twenty-three thousand (23,000) pounds and its load is in fact less than twenty-three thousand (23,000) pounds.

- (3) Town of Fayette vehicles.
- (4) Vehicles operating under an exemption certificate issued by the Director of Public Works. The allowable axle weights shall be shown on the exemption certificate and will be calculated based upon the following schedule of reduced loads per inch tire width and manufacturer's rating:

Two-axle truck--420 pounds per inch

Three-axle truck--420 pounds per inch

Four-axle truck--385 pounds per inch

Five-axle truck--350 pounds per inch

The gross weight for any vehicle operating under an exemption certificate shall not exceed sixty thousand (60,000) pounds.

- D. When operating a vehicle under an exemption certificate carrying a partial load with a weight equal to or less than indicated on the exemption certificate, the vehicle operator shall have in the vehicle delivery slips or bills of lading documenting the entire amount or weight of the commodities being transported. The vehicle operator shall present the delivery slips, bills of lading and exemption certificate to any law enforcement officer upon request.
- E. Any vehicle operating under an exemption certificate shall proceed to the nearest operating public scale when directed by a law enforcement officer for weighing. Failure to proceed as directed shall be a violation of 29 M.R.S.A. § 1805 and this section.
- F. The Road Commissioner may revoke the exemption certificate for any vehicle found to be operating with axle or gross weights in excess of those shown on the exemption certificate.
- G. The Road Commissioner shall not issue exemption certificates to haul forest products, such as, but not limited to bark, bolts, logs, pulpwood, sawdust, and wood chips, and soils, such as, but not limited to sand, gravel, stone and loam. Exempt vehicles for the purpose of this Ordinance may include vehicles used to pick up or deliver agricultural products, vehicles necessary to delivering heating fuels to homes and businesses within the town of Fayette.

3.9 RIGHT OF WAY AT CROSSWALKS; SUDDEN MOVEMENT PROHIBITED.

- A. When traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle, which is so close that it is impossible for the driver to yield.

State law references: Similar provisions, 29 M.R.S.A. § 954.

3.10 CROSSING ROADWAY AT OTHER THAN CROSSWALKS.

- A. Every pedestrian crossing a roadway at any point other than within a marked crosswalk shall yield the right-of-way to all vehicles upon the roadway, subject to traffic-control lights at an intersection so controlled.

State law references: Similar provisions, 29 M.R.S.A. § 954.

3.11 MANNER OF CROSSING ROADWAY.

- A. No pedestrian shall cross a roadway by any other route than at right angles to the curb or by the shortest route to the opposite side.

4.0 ADVISORY SIGNS

- A. The current location of all Advisory Signs shall be listed in this section; however, the placement or removal of Advisory Signs shall not be considered an amendment to this Ordinance and may be ordered by the Board of Selectmen without holding a public hearing.

(1) ***Dead End***

Asa Hutchinson, Bamford Pond, Ellis, Fayette Ridge, Folsom, Gail, Gile, Knox, Limberlost, Maple Lane, Morris Springer, Norton, Oak Hill, Palmer, Philip Davis

(2) ***Hidden Driveway***

Moose Hill, Richmond Mill, Lovejoy Pond Road.

(3) ***Children at Play***

East, Echo Lake, Ellis, Gail, Gile, Lovejoy Shores, North, Sandy River, South, Watson Heights Road.

(4) ***Horse Crossing***

Moose Hill, Richmond Mill, Bamford Hill

- (5) ***Alpaca Crossing***
 Watson Heights
- (6) ***Handicap Person in Area***
 North Road, Baldwin Hill
- (7) ***STOP AHEAD***
 Jackman Mill, Mosher Pond, North, Bamford Hill,
- (8) ***YIELD AHEAD***
 Jackman Mill.
- (9) ***Speed Bump Caution***
 Echo Lake Road
- (10) ***No Parking 10 Feet from Pavement***
 North Road
 Watson Heights Road
 Echo Lake Road

4.9 PRIVATE ROADS

- A. It is the responsibility of the owner of a private road to post traffic control signage where said road intersects with a town road. In the absence of signage, it is the implied responsibility of vehicles on the private road to stop before entering the public road.

4.10 SPEED HUMPS

- A. Physical obstructions used to control vehicle speed, commonly called “speed Humps,” speed tables,” etc., may not be constructed on any town street without the approval of the Board of Selectmen. The first time approval for the installation of a speed bump shall be considered an amendment to the Ordinance.
- B. Speed humps are authorized at the following roads:
 - (1) Echo Lake Road

Prepared by Selectman Joseph Young
Presented by Town Manager, Mark Robinson on January 12, 2009
Revised by Selectman Joseph Young 3/23/2009
Revised by Selectman Mary Wright 4/20/2009
Revised by Selectman Joseph Young 7/13/2009

PART 1

GENERAL PROVISIONS

Section 101 SHORT TITLE

This Ordinance shall be known and may be cited as the "Fayette Waste Disposal Ordinance".

Section 102 PURPOSES AND POLICIES

The Town of Fayette has enacted this Ordinance for the purpose of protecting the public health, safety and welfare of the inhabitants of the Town of Fayette and for protecting and enhancing the Town of Fayette's environment. This Ordinance is intended to provide comprehensive regulations governing the disposal of Waste generated within the Town of Fayette. The purpose of Segregating all Waste is to conserve those materials that can be re-used. In so doing, the Town of Fayette will reduce the amount of material to be transferred to disposal or waste to energy facilities and reduce the cost of disposal of Waste generated within the Town of Fayette. This Ordinance shall be liberally construed to effectuate its purposes and policies.

Section 103 AUTHORITY

This Ordinance is enacted pursuant to Article VIII Part Second of the Constitution of the State of Maine and the Laws of the State of Maine, including, without limitation: 30-A M.R.S.A. Section 3001 and 38 M.R.S.A. Sections 1304-B and 1305.

Section 104 TERRITORIAL APPLICATION

This Ordinance applies to all Persons Disposing and Generating Waste within the Town of Fayette.

Section 105 SEVERABILITY

A. If any provision or section of this Ordinance, or the application thereof to any Person or circumstance, is held void or invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect in whole or in part without the invalid provision or application, and to this end each provision of this Ordinance is declared to be severable and independent. It is the intent of the Town of Fayette that each and every part, clause, paragraph, section and subsection of this Ordinance be given effect to the degree possible.

B. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other Ordinance or code of the Town of Fayette, existing on the effective date of this Ordinance, the provision which established the higher standard for the promotion and protection of health and welfare for the community shall prevail.

Section 106 EFFECTIVE DATE

This Ordinance shall be effective on February 17, 1991.

PART 2

DEFINITIONS

Section 201 DEFINITIONS

Subject to additional definitions contained in the subsequent Parts of this Ordinance and unless the context otherwise requires, in this Ordinance and the following terms have the following meanings (such definitions to be equally applicable to all parts of speech and to both the singular and plural forms of the terms defined):

A. Acceptable Liquid Waste. "Acceptable Liquid Waste" means the collective reference to Liquid Wastes that are Specially Approved Waste and Reclaimable Liquid Waste.

B. Acceptable Solid Waste. "Acceptable Solid Waste" means all damaged Recyclable Materials, ordinary household, municipal, institutional, commercial, industrial, solid waste, consisting primarily of garbage, trash, rubbish, refuse that is disposed of by or collected from residential, commercial, institutional, industrial establishments within the Town of Fayette. Acceptable Solid Waste excludes the following items: Recyclable Materials, Other Solid Waste, Specially Approved Waste, Reclaimable Materials, Reclaimable Liquid Waste, Unacceptable Solid Waste and Unacceptable Liquid Waste.

C. Agricultural Activity. "Agricultural Activity" means the growing of vegetables, fruits, seeds, nursery crops, poultry, livestock, field crops, cultivated or pasture hay and farm woodlot products, including Christmas trees or similar activities.

D. Agricultural Waste. "Agricultural Waste" means Solid or Liquid Wastes which result from Agricultural Activities and which are returned to the soils as fertilizers.

E. Asbestos. "Asbestos" means a group of naturally occurring minerals that separate into fibers of high tensile strength and are resistant to heat, wear and chemicals, including, but not limited to chrysotile, amosite, crocidolite, actinolite, tremolite and anthophyllite and any of these minerals that have been chemically treated or altered.

F. Ash. "Ash" means the residue remaining after the combustion of a material such as coal, wood, oil, Burnable Construction Debris, Hot Loads, Wood Waste, or Vegetative Waste.

G. Authorized Hauler. "Authorized Hauler" means a Person who has a contract with the Town of Fayette to transport Acceptable Solid Waste and Recyclable Materials to a Disposal Facility and/or is approved to transport to a Disposal Facility Other Solid Waste, Reclaimable Materials, Reclaimable Liquid Waste and Specially Approved Waste for Persons generating such waste within the Town of Fayette.

H. Authorized Hauler's Vehicle. "Authorized Hauler's Vehicle" means a vehicle approved by the Town of Fayette to deliver Acceptable Solid Waste, Recyclable Materials, Other Solid Waste, Reclaimable Materials, Reclaimable Liquid Waste and Specially Approved Waste to a Disposal Facility.

I. Authorized Resident. "Authorized Resident" means a Person who resides in the Town of Fayette or conducts business in the Town of Fayette and who has obtained a permit from the Town of Fayette to deliver Acceptable

Solid Waste, Recyclable Materials, Other Solid Waste, Reclaimable Materials, Reclaimable Liquid Waste and Specially Approved Waste to a Disposal Facility.

J. Authorized Resident's Vehicle. "Authorized Resident's Vehicle" means any vehicle displaying a sticker issued by the Town of Fayette pursuant to this Ordinance.

K. Authorized Vehicles. "Authorized Vehicles" means the collective reference to Authorized Resident's Vehicles and Authorized Hauler's Vehicle.

L. Brown Goods. "Brown Goods" means large television or entertainment modules or furniture including but not limited to sofas, television consoles, wood frames beds, chairs, hid-a-beds and stereo consoles.

M. Bundle. "Bundle" means to place in a brown paper bag or other similar method for separating the material. Placing the material in clear plastic bags or tying the material together with string is not bundling and is not permitted.

N. Burnable Debris. "Burnable Debris" means burnable wood debris resulting from construction, remodeling, repair, demolition of structures and Brown Goods. Burnable Debris is considered as Other Solid Waste.

O. Code Enforcement Officer. "Code Enforcement Officer" means the Fayette Code Enforcement Officer.

P. Collectors. "Collectors" means any Person employed by the Town of Fayette or has a contract with the Town of Fayette for the pick up and collection of Acceptable Solid Waste and Recyclable Materials.

Q. Construction/Demolition Debris. "Construction/Demolition Debris" means nonburnable debris resulting from construction, remodeling, repair, and demolition of structures. The term includes but is not limited to building materials, asphalt, wall board, plastic pipes, carpeting and underlay; it excludes all Unacceptable Solid and Liquid Wastes or Inert Fill.

R. Disposal or Dispose. "Disposal" or "Dispose" means the discharge, deposit, injection, incineration, dumping, spilling, leaking or placing of any Waste into or on any land or water so that the Waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters.

S. Disposal Facility. "Disposal Facility" means any landfill, transfer station, waste to energy facility or other facility for the disposal of Waste and that has a contract with the Town of Fayette for disposing of Waste generated within the Town of Fayette.

T. Dredge Spoils. "Dredge Spoils" means earthen materials removed from beneath any surface water.

U. E.P.A. "E.P.A." means the United States Environmental Protection Agency.

V. Generating. "Generating" means to originate, produce, cause or otherwise brought into existence.

W. Hazardous Waste. "Hazardous Waste" means a waste in either a liquid or solid state, designated as hazardous by the Disposal Facility, the E.P.A. or the M.D.E.P. and includes special nuclear or by-product material

within the meaning of the Atomic Energy Act of 1954, as amended. Hazardous Waste is either an Unacceptable Liquid Waste or Unacceptable Solid Waste, except as specially approved by the Selectmen.

X. Hot Loads. "Hot Loads" means Solid Waste that is on fire or smoldering when delivered to the Disposal Facility. Hot Loads are considered as Other Solid Waste.

Y. Inert Fill. "Inert Fill" means clean soil material, rocks, bricks, and cured concrete, which are not mixed with Other Solid Waste or Liquid Waste, and which are not derived from an ore mining activity.

Z. Land Clearing Debris. "Land Clearing Debris" means Solid Wastes resulting from the clearing of land and consisting solely of brush, stumps, unsegregated soil material, and rocks.

AA. Lead Acid Batteries. "Lead Acid Batteries" means batteries constructed of lead plates and acid. This term includes but is not limited to most car, boat and truck batteries. Lead Acid Batteries are a Reclaimable Liquid Waste.

BB. Liquid Waste. "Liquid Waste" means any waste that is determined to contain free liquids according to the Paint Filter Liquids Test (Method 9095 of E.P.A. SW-846, 3rd Edition). Liquid Waste is the collective reference to Acceptable Liquid Waste and Unacceptable Liquid Waste.

CC. M.D.E.P. "M.D.E.P." means the Maine Department of Environmental Protection.

DD. Metal Goods. "Metal Goods" means bikes, metal doors, metal pipe, window frames, cyclone or other metal fences, screens, wire, sheet metal, metal conduit cables, tools, aluminum, copper and brass items, vented barrels and vented propane fuel tanks.

EE. Ordinance. "Ordinance" means the several parts comprising this Ordinance, and as may be amended from time to time.

FF. Other Solid Wastes. "Other Solid Wastes" is the collective reference to Brown Goods, Ash, Mattress, Box Springs, Construction/Demolition Debris, Hot Loads, Burnable Debris, Vegetative Waste and Wood Waste.

GG. Person. "Person" means an individual, corporation, partnership, consortium, joint venture association, commercial entity, trust, firm, municipality, county, state, federal or other governmental unit, or any combination thereof and the agents of same.

HH. Pick-Up Site. "Pick-Up Site" means any location or locations within the Town of Fayette and designated by the Selectmen as a Pick-Up Site.

II. Reclaimable Liquid Waste. "Reclaimable Liquid Wastes" are Acceptable Liquid Wastes that may be reclaimed and are as follows: Lead Acid Batteries and Waste Oil.

JJ. Reclaimable Materials. "Reclaimable Materials" are Solid Waste materials that may be reclaimed and are as follows: White Goods; Tires; and Metal Goods.

KK. Recyclable Materials. "Recyclable Materials" are materials that can be reused either in the same form or as part of a different product. Recyclable Materials are as follows:

1. Glass: clear, green and brown glass, containers and bottles. All other glass, including, without limitation, ceramics, clay flower pots, glass containing lead such as mirror and window glass, drinking glasses and crystal, ovenware and light bulbs are not Recyclable Materials but are Acceptable Solid Waste;
2. Newsprint: black and white newspapers, including all colored and/or glossy advertising inserts that are part of the newspaper. All other glossy advertising flyers (junk mail) are in the "Mixed Paper" category of Recyclable Materials;
3. Corrugated Cardboard and Brown Paper Bags: all waxed corrugated, foreign (yellow) corrugated and non-corrugated cardboard (paperboard) is in the "Mixed Paper" category of Recyclable Materials.
4. Plastics: Plastic bottles, Plastic containers or Rigid plastic containers of High-Density Polyethylene (HDPE) such as milk jugs, juice jugs, detergent bottles or oil bottles. All other types of plastic such as Polyethylene Terephthalate (PETE) (soda bottles), Vinyl (V), Polypropylene (PP), Polystyrene (PS) (Styrofoam Products) and Low-Density Polyethylene (LDPE) (garbage bags and bread wrappers) are not Recyclable Materials but are Acceptable Solid Waste.
5. Mixed Paper: Junk mail, glossy advertisements and colored paper not part of a newspaper, TV guides, glossy magazines, waxed corrugated cardboard, foreign (yellow) corrugated cardboard, non-corrugated cardboard (Paperboard). High-grade is mixed paper unless state law requires the Person to separate High-Grade paper from mixed paper. All contaminated, dirty or wet paper, including, without limitation, paper towels, tissues, napkins, paper plates and cups and margarine wrappers are not Recyclable Materials but are Acceptable Solid Waste.
6. Metal/Aluminum Food Cans: All clean tin and aluminum food cans and trays, aluminum foil and aluminum pie plates. Empty paint and aerosol cans are not Recyclable Materials but are Acceptable Solid Waste. All other scrap metal is Reclaimable Materials.
7. High grade paper: White, greenbar computer paper and lightly colored copier, lined or typing paper and envelopes without windows.

LL. Recycling Container. "Recycling Container" means the 33 gallon plastic barrel with cover, numbered and marked "Recyclable Materials".

MM. Segregate. "Segregate" means to set a part, isolate, or separate from other materials.

NN. Selectmen. "Selectmen" means the municipal officers elected to the Fayette Board of Selectmen by the voters of the Town of Fayette.

OO. Sludge. "Sludge" means any semi-solid or liquid waste generated from household septic tanks, a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, or wet process air pollution control facility or any other such waste having similar characteristics and effect. Sludge is an Unacceptable Liquid Waste.

PP. Solid Waste. "Solid Waste" means unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example, and not by limitation, rubbish, garbage, refuse-derived fuel, scrap materials, junk, refuse, inert fill material and landscape refuse. Solid Waste is the collective reference to Acceptable Solid Waste, Recyclable Materials, Reclaimable Materials, Other Solid Waste, Specially Approved Waste and Unacceptable Solid Waste.

QQ. Special Wastes. "Special Wastes" means any non-hazardous Solid Waste or Liquid Waste generated by sources other than ordinary households and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof, which may disrupt or impair effective waste management or threaten the public health, human safety or the environment and requires special handling, transportation and disposal procedures. Special Wastes include, but are not limited to:

- a. Oil, coal, wood and multifuel boiler and incinerator ash;
- b. Industrial and industrial process waste;
- c. Debris and residuals from nonhazardous chemical spills and cleanup of those spills;
- d. Contaminated soils and dredge spoils;
- e. Asbestos and asbestos-containing waste;
- f. Sand blast grit and nonliquid paint waste;
- g. Medical and other potentially infectious or pathogenic waste; and
- h. High and low pH waste.

RR. Specially Approved Wastes. "Specially Approved Wastes" are wastes that are considered Hazardous Wastes either in a solid or liquid state as designated from time to time by the Selectmen. Specially Approved Waste materials include, but are not limited to: Liquid and non-liquid paint, paint thinner, bleach and household cleaning solvents.

SS. Tires. "Tires" are the device made of rubber or any similar substance which is intended to be attached to a motorized vehicle or trailer or bicycle and is designed to support the load of the motor vehicle or trailer or bicycle. Tires are Reclaimable Materials only if all rims or wheels are removed.

TT. Unacceptable Liquid Wastes. "Unacceptable Liquid Wastes" is the collective reference to Hazardous Waste and Special Waste that have sufficient liquid content to be free flowing, Sludge, and other Liquid Waste designated as Unacceptable by the Selectmen.

UU. Unacceptable Solid Wastes. "Unacceptable Solid Wastes" are materials not considered Acceptable Solid Waste, Recyclable Materials, Reclaimable Materials, Other Solid Wastes or Specially Approved Wastes. Unacceptable Solid Wastes include but are not limited to:

1. Junked or abandoned vehicles;

2. engine blocks;
3. snowmobiles or all-terrain vehicles;
4. dead animals or portion thereof, other pathological-type solid waste;
5. Inert Fill;
6. fuel tanks, other than propane;
7. Agricultural Waste;
8. Land clearing debris;
9. Dredge Spoils;
10. Hazardous Wastes and Special Wastes with insufficient liquid content to be free flowing; and not specially approved; and
11. any other Solid Waste designated Unacceptable by the Selectmen;

VV. Vegetative Wastes. "Vegetative Wastes" means Solid Wastes consisting of plant matter from Agriculture Activities, farms, homes, plant nurseries, greenhouses. These shall include plant stalks, grass clippings, hulls, leaves, and plant waste processed through a wood chipper. Vegetative Wastes is considered as Other Solid Waste.

WW. Violator. "Violator" means any Person violating this Ordinance.

XX. Waste. "Waste" means all discarded materials or substances rejected as being spent, useless, worthless, unwanted or in excess to the owners at the time of such discard or rejection. Waste is the collective reference to Solid Waste and Liquid Waste.

YY. Waste Oil. "Waste Oil" means a used, spent, discarded or unwanted petroleum based oil product which is not designated as a Hazardous Waste or contaminated with Hazardous Waste and that can be reclaimed as a fuel source. The term includes only: crankcase oil; manual transmission fluid; and #2 fuel oil. Waste Oil is a Reclaimable Liquid Waste.

ZZ. White Goods. "White Goods" means large appliances, including but not limited to stoves, refrigerators, freezers, washing machines, dishwashers, clothes dryers, hot water tanks and air conditioners.

AAA. Wood Wastes. "Wood Wastes" means brush, stumps, lumber, bark, woodchips, shavings, slabs, edgings, slash, and sawdust, which are not mixed with Other Solid Wastes or Liquid Waste. Wood Waste is considered as Other Solid Wastes.

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PART 3

GENERAL PROHIBITIONS

Section 301 PROHIBITION

No Person shall Dispose of Waste in the Town of Fayette except in accordance with this Ordinance. Waste not Generated in the Town of Fayette shall not be Disposed of in the Town of Fayette or at a Disposal Facility.

Section 302 ANTI-SCAVENGING

No Person shall remove, add to, tamper with or take possession of Acceptable Solid Waste or Recyclable Materials placed or set out for collection.

Section 303 EXCEPTIONS

A. Any Person who has a license or permit to Dispose of Waste from any agency of the State of Maine including but not limited to M.D.E.P. and is in compliance with its license and permit may Dispose of Waste in the Town of Fayette in accordance with such license or permit.

B. If the disposal method is a Best Management Practice, then Any Person who is engaged in an Agricultural Activity in the Town of Fayette may dispose of Agricultural Waste in the Town of Fayette. "Best Management Practice" shall mean those management practices which are determined by the Maine Commissioner of Agricultural, Food and Rural Resources to be best management practices.

C. Any Person who has a recycling program approved by the Selectmen and is in compliance with its approval may dispose of its recyclable Waste at a recycling facility.

PART 4

FLOW CONTROL

Section 401 ACCEPTABLE SOLID WASTE BAGS AND RECYCLING CONTAINERS

The Town of Fayette shall sell Acceptable Solid Waste Bags to Persons participating in the collection program pursuant to Section 404. The price of the Acceptable Solid Waste Bags shall be equal to the cost incurred by the Town of Fayette in acquiring and selling the Acceptable Solid Waste Bags. The Town of Fayette shall sell or give Recycling Containers to Persons participating in the collection program pursuant to Sections 403 and 404. In the event the Selectmen elect to charge a fee for the Recycling Containers, the fee shall not be greater than the cost incurred by the Town of Fayette in acquiring and delivering the Recycling Containers.

Section 402 WASTE SEGREGATION AND ARRANGEMENT

A. Each Person shall Segregate his Waste as follows:

1. Solid Waste shall be Segregated from Liquid Waste;
2. Unacceptable Liquid Waste shall be Segregated from Acceptable Liquid Waste;
3. Unacceptable Solid Waste shall be Segregated from Acceptable Solid Waste, Recyclable Materials, Reclaimable Materials, Other Solid Waste and Specially Approved Wastes;
4. Recyclable Materials and Acceptable Solid Wastes shall be Segregated from Reclaimable Materials, Other Solid Wastes and Specially Approved Waste;
5. Recyclable Materials shall be Segregated from Acceptable Solid Waste;
6. Reclaimable Materials shall be Segregated from Other Solid Waste and Specially Approved Waste;
7. Other Solid Waste shall be Segregated from Specially Approved Waste; and
8. Reclaimable Liquid Waste shall be Segregated from Specially Approved Waste.

B. Recyclable Materials shall be processed in accordance with Sections 403 and 404 of this Ordinance.

C. Acceptable Solid Waste shall be put in an Acceptable Solid Waste Bag or placed in a clear, see through polyethylene or PVC bags of at least 1 1/2 mils thickness and processed in accordance with Section 404.

D. Reclaimable Materials, Other Solid Waste and Reclaimable Liquid Waste shall be further Segregated as designated in this Subsection D and brought to the Disposal Facility at times specified by the Disposal Facility and placed in the appropriate area as designated by the Disposal Facility signage or by the Disposal Facility Operator:

1. Wood Waste such as Tree trunks, limbs, branches shall be cut into lengths not to exceed 4 feet;
2. Leaves, grasses and other Vegetative Wastes must be removed from their container prior to depositing this material at the specified area;
3. White Goods shall have all doors removed before being brought to the Transfer Station;
4. Wood Furniture - with metal plates, arms, supports, levers, etc. removed;
5. Burnable Debris reduced to truckable lengths;
6. Mattresses and Bedsprings;
7. Wood Waste;
8. Wood and floor model or console radios, TV sound systems, etc. with all electric/acoustical components removed from cabinet or frame. Housing/cabinets shall be considered burnable;
9. Sheet metal items shall be cut or folded and flattened such that no dimension exceeds 4 feet;
10. Aluminum, Copper and Brass items shall be Segregated by material type;
11. Tires with rims removed shall be Segregated by size;
12. Waste Oil shall be put in the designated waste oil storage tank;
13. Lead Acid Batteries;
14. Hot Loads, wood or coal stove ash from residents or any kind of hot or cold ashes;
15. Construction/Demolition Debris;
16. Small propane tanks and barrels which must be vented; and
17. Metal Goods other than those stated in item 9 and item 10. Cable steel must be cut in 2 foot lengths.

E. Unacceptable Liquid Waste, Unacceptable Solid Waste and items of Reclaimable Materials, Other Solid Waste and Reclaimable Liquid Waste which are not accepted by the Disposal Facility, shall be disposed of in accordance with the laws of the United States of America and the State of Maine and the rules and regulations of the EPA and M.D.E.P. No Unacceptable Liquid Waste, Unacceptable Solid Waste or items of Reclaimable Materials, Other Solid Waste and Reclaimable Liquid Waste which are not accepted by the Disposal Facility shall be disposed of within the Town of Fayette unless such waste is designated Specially Approved Waste by the Selectmen.

Section 403 RECYCLING SEPARATION

Each category of Recyclable Materials shall be separately bundled or segregated and placed in a Recycling Container as follows:

- A. Glass - All clear glass shall be segregated by color and bundled together and all other colored glass shall be segregated by color and bundled together. All glass must be rinsed and all caps, covers and lids shall be removed and disposed of as Acceptable Solid Waste. Labels do not need to be removed.
- B. Newsprint - All newsprint shall be bundled together.
- C. Corrugated Cardboard and Brown Paper Bags - All clean, dry corrugated cardboard and brown bags shall be bundled together. All plastic inserts shall be removed and disposed of as Acceptable Solid Waste.
- D. Plastics - High Density Polyethylene Plastic such as milk jugs, juice jugs, detergent bottles or oil bottles shall be separated and bundled together. All High Density Polyethylene Plastic must be flattened and rinsed or well drained in the case of oil and all caps, neck rings and spouts must be removed and disposed of as Acceptable Solid Waste. Labels do not need to be removed.
- E. Mixed Paper. All mixed paper shall be bundled together. Any metal or plastic attached to any paper shall be removed and disposed of as Acceptable Solid Waste.
- F. Metal/Aluminum Food Cans. All Metal/Aluminum Food Cans and trays shall be bundled together. All Metal/Aluminum shall be washed with labels removed. Cans shall be crushed whenever possible.
- G. High Grade Paper. All high grade paper shall be bundled together. All plastic items, metal items (other than staples) shall be removed and disposed of as Acceptable Solid Waste.

Section 404 COLLECTION

Each Person shall place his Acceptable Solid Waste Bags containing Acceptable Solid Waste and his Recycling Containers containing Recyclable Materials at roadside or curbside or at Pick-up Sites for collection by the Collectors at times specified by Resolution of the Selectmen.

The Recycling Containers shall be kept securely covered in order to preclude odor from emanating from the Recycling Container and to prevent rodents, insects, vectors, rain or snow from contacting the Recyclable Materials.

Any Authorized Resident, however, may deliver his Acceptable Solid Waste and Recyclable Materials to the Disposal Facility at times specified by the Disposal Facility. Any Authorized Resident delivering Acceptable Solid Waste or Recyclable Materials directly to the Disposal Facility must have these items weighed at scales acceptable to the Disposal Facility. Authorized Residents shall not deliver waste to the Disposal Facility which has not been generated within the Town of Fayette.

Authorized Residents may deliver to the Disposal Facility items of Reclaimable Materials, Other Solid Waste, Reclaimable Liquid Waste and Specially Approved Waste that the Disposal Facility is accepting. The Authorized Resident shall pay the fee for such disposal that is charged by the Disposal Facility at the location or locations designated by the Disposal Facility. Authorized Residents may contract with Authorized Haulers to deliver their Other

Solid Waste, Reclaimable Materials, Reclaimable Liquid Waste and Specially Approved Waste to the Disposal Facility.

PART 5

OPERATIONS

Section 501 AUTHORIZATIONS

The Selectmen may enter, execute and deliver on behalf of the Town of Fayette, a contract or contracts with one or more Disposal Facilities for the disposal of Acceptable Solid Waste, Recyclable Materials, Reclaimable Materials, Other Solid Waste, Reclaimable Liquid Waste and Specially Approved Waste generated within the Town of Fayette. These contracts shall be upon such terms and conditions as the Selectmen deem advisable and necessary and in the best interest of the Town of Fayette. The Selectmen may, by resolution, designate one or more Pick-up Sites within the Town of Fayette for the collection of Acceptable Solid Waste and Recyclable Materials.

Authorized Residents shall be persons who reside in the Town of Fayette or who operate a business in the Town of Fayette. The Selectmen may permit Authorized Residents to deliver Acceptable Solid Waste, Recyclable Materials, Reclaimable Materials, Other Solid Waste, Reclaimable Liquid Waste and Specially Approved Waste to Disposal Facilities. The Selectmen may issue permits to Authorized Residents in the form of a sticker to be placed on the Authorized Residents Vehicle. Upon acceptance of the sticker the Authorized Resident agrees to comply with all terms and conditions of Fayette's contract with the Disposal Facility and all rules and regulations of the Disposal Facility.

The Selectmen may enter, execute and deliver on behalf of the Town of Fayette, a contract or contracts with one or more Authorized Hauler to collect and transfer Acceptable Solid Waste and Recyclable Materials to the Disposal Facility and to allow Authorized Haulers to contract with Authorized Residents to pick up and transport Reclaimable Materials, Other Solid Waste, Reclaimable Liquid Waste and Specially Approved Waste to a Disposal Facility.

Authorized Haulers must own or lease one or more Authorized Hauler's Vehicle. Each Authorized Hauler's Vehicle must display a sticker issued by the Town of Fayette. All Authorized Haulers shall have comprehensive property damage and liability insurance in such amounts and upon such terms and conditions that the Selectmen may prescribe from time to time. All such insurance shall name as insured the Town of Fayette and the Disposal Facility and provide for non cancellation except upon 30 days written notice to the Disposal Facility and to the Town of Fayette. All Authorized Hauler's Vehicles shall be a type specially designed for use in the refuse industry for solid waste disposal, such as rear and front load compaction vehicles, roll-off equipment, open and closed compaction trailers, dust containers, liquid-tight containers and/or transfer type vehicles which meet the reasonable standards which the Disposal Facility and the Town of Fayette may now or hereafter require. All contracts with Authorized Haulers shall contain the requirements that the Authorized Haulers will comply with all contracts with the Disposal Facility and all rules and regulations of the Disposal Facility and this Ordinance and all the rules adopted thereunder. Authorized Haulers shall not deliver to the Disposal Facility, under Fayette's contract with the Disposal Facility, Waste generated in communities other than the Town of Fayette.

The Selectmen may contract with specialty environmental contractors to assist the Town in the collection and disposal of Specially Approved Wastes and the other categories of waste.

Section 502 RULES AND REGULATIONS

The Selectmen may, by resolution, adopt such rules and regulations as they deem necessary for: the disposal of Acceptable Solid Waste, Recyclable Materials, Other Solid Waste, Reclaimable Waste, Reclaimable Liquid Waste, Specially Authorized Waste; contracts with the Disposal Facility, Authorized Haulers; and issuing permits. These rules and regulations may include but are not limited to dates and hours for collection of Acceptable Solid Waste and Recyclable Materials and the designation of Pick-up Sites. Any violation of the rules and regulations adopted hereunder shall be deemed a violation of this Ordinance.

Section 503 INSPECTION AND REJECTION

Any Acceptable Solid Waste or Recyclable Materials set out for collection or any Waste brought to the Disposal Facility may be inspected to insure compliance with this Ordinance. The Selectmen, the Town Manager, the Collectors and the Disposal Facility have the authority to reject, in their sole discretion, for non-compliance with this Ordinance or any contract with the Disposal Facility, any Waste set out for collection or Waste brought to the Disposal Facility. If any Liquid Waste, Unacceptable Solid Waste, Other Solid Waste, Specially Approved Waste or Reclaimable Material is mixed with the Acceptable Solid Waste or with the Recyclable Materials or any Acceptable Solid Waste is mixed with the Recyclable Materials, the Waste will be rejected and if set out for collection pursuant to Section 404 it will not be picked up by the Collector. Upon such rejection, the Person whose Waste has been rejected shall segregate its Waste in accordance with this Ordinance.

Section 504 RESPONSIBILITY

Selectmen shall be responsible for enforcing this Ordinance. The Selectmen may designate the Town Manager or the Code Enforcement Officer to assist them in carrying out their duties and obligations under this Ordinance, including without limitation, to waive court proceedings under Section 603 and to inspect and reject material under Section 503. The Selectmen, the Town Manager and Code Enforcement Officer may issue citations for violations of this Ordinance when proceeding under Section 603 and they may assist in all proceedings for enforcement of this ordinance under Part 6.

Section 505 TITLE AND USE OF ACCEPTABLE SOLID WASTE AND RECYCLABLE MATERIALS

All Acceptable Solid Waste or Recyclable Materials once segregated and are to be disposed of shall become the property of the Town of Fayette. Unacceptable Solid Waste, Reclaimable Materials, Other Solid Waste, Reclaimable Liquid Waste or Specially Approved Waste or Unacceptable Liquid Waste, wherever located, shall not become the property of the Town of Fayette. All Reclaimable Materials, Other Solid Waste, Reclaimable Liquid Waste or Specially Approved Waste that is accepted at the Disposal Facility shall become the property of the Disposal Facility. The Selectmen may sell, donate or otherwise deal with the Acceptable Solid Waste or Recyclable Materials.

PART 6

PENALTIES AND ENFORCEMENT

Section 601 VIOLATIONS

A. General Procedure. Upon its own motion or upon written complaint by 10 or more Persons residing or conducting business in the Town of Fayette that any Person is in violation of any of the provisions of this Ordinance, any Fayette contract with a Disposal Facility, any contract with the Town of Fayette, the terms or conditions of any permit, approval or Enforcement Order which violation does not create a substantial and immediate danger to the public health, welfare or safety, the Selectmen, in conjunction with the Code Enforcement Officer, with or without notice, shall make an investigation and, if warranted in light of such investigation, shall commence an enforcement proceeding in accordance with Sections 602, 603 or 604 hereof. Prior to commencing such enforcement the Selectmen may consult and coordinate with appropriate state agencies concerning the alleged violations.

B. Emergency Procedure. Whenever it appears to the Selectmen, after investigation, that there is a violation of any provision of this Ordinance, any Fayette contract with a Disposal Facility, any contract with the Town of Fayette, the terms or conditions of any permit, approval or Enforcement Order which is creating or is likely to create a substantial and immediate danger to public health, welfare or safety, the Selectmen may, in accordance with this subsection, order the Person or Persons causing or contributing to such hazard to take such immediate actions as are necessary to reduce or alleviate the danger. Service of a copy of the Selectmen's Enforcement Order issued under this emergency procedure shall be made by a Fayette Constable or Sheriff or Deputy Sheriff to the Person to whom the Enforcement Order is directed. In the event such Persons are so numerous that the specified method of service is a practical impossibility or the Selectmen are unable to identify the Person or Persons causing or contributing to such hazard, the Selectmen, to the extent practicable, shall make its Enforcement Order known by publication of such Enforcement Order for a reasonable period in a newspaper of general circulation in the Town of Fayette or shall publicize such Enforcement Order on radio or television for a reasonable period. Prior to issuing such order, the Selectmen may consult and coordinate with appropriate state agencies in responding to the emergency.

The Person to whom such Enforcement Order is directed shall comply with it immediately. Such Person may apply within 48 hours after receipt of the Enforcement Order for reconsideration of the Enforcement Order, which reconsideration shall be by the Selectmen within seven (7) days after receipt of a request for reconsideration. After reconsideration or upon their own motion, the Selectmen may continue, revoke or modify the enforcement order. The decision of the Selectmen shall be considered final action which may be appealed in accordance with Section 606. This subsection in no way interferes with the right of the Selectmen to seek a court injunction in the case of a substantial and immediate danger, as provided in Section 604.

C. Nuisance. Any property or use existing in violation of this Ordinance is a nuisance.

Section 602 ENFORCEMENT ORDER

The Selectmen may issue an Enforcement Order aimed at abating or correcting a violation of this Ordinance and ensuring that the violation does not recur, and, in addition, may modify any permit, approval or Enforcement Order in whole or in part, condition the permit, approval or Enforcement Order on reasonable requirements or revoke or suspend, the permit, approval or Enforcement Order, and assess a penalty, whenever the Selectmen find:

- A. The Person violated any provision of this Ordinance;
- B. The Person violated any term or condition of a permit, approval, Enforcement Order or Decree of Court;
- C. The Person obtained a permit, approval or Enforcement Order by false statement, misrepresentation or failure to disclose fully all relevant facts;
- D. The permitted activity poses a threat to human health or welfare; or
- E. There has been a change in any condition or circumstance that requires revocation, suspension, conditioning or a temporary or permanent modification of the terms of the permit, approval or Enforcement Order.

The Enforcement Order shall state the date upon which it becomes effective and shall advise the Person that he may seek judicial review.

All Enforcement Orders entered by the Selectmen pursuant to this section shall be considered final action of the Selectmen as of the date of the Enforcement Order for purposes of judicial review.

Section 603 ENFORCEMENT PROCEDURE FOR CERTAIN VIOLATIONS

A. Each violation of Part 4 of this Ordinance except 402(E) may be enforced under this Section 603. Each violation of such Part 4 of this Ordinance shall be recorded against the Violator in a separate account maintained by the Town of Fayette. A violation will be erased from the Violator's record when the violation becomes one (1) year old and thereafter the erased violation will not be used in determining the appropriate procedure under this section.

1. Any Person violating such Part 4 of this Ordinance and whose violation record is zero (0) or one (1) shall be given a written warning.

2. Any Person violating such Part 4 of this Ordinance and whose violation record is two (2) or more may be brought to court pursuant to the Maine Rules of Procedure.

B. The Selectmen and the Violator may agree to waive of court proceedings when proceeding under this Section 603. In the event of such an agreement, the waiver penalty for each violation shall be as follows:

- 1. Third Violation - \$5.00
- 2. Fourth Violation - \$10.00
- 3. Fifth Violation - \$50.00
- 4. Sixth Violation - \$100.00

Payment of the penalty under this procedure by the Violator shall be deemed an admission of the violation and a waiver of any court proceeding. The Violator shall pay the appropriate amount to the Town of Fayette pursuant to Section 605 (D).

Section 604 JUDICIAL ENFORCEMENT

A. General. In the event of a violation of any provision of this Ordinance, Enforcement Order, permit, approval or final decision or action of the Selectmen or Decree of Court, as the case may be, the Selectmen may institute judicial proceedings in accordance with state law for 1) an order enjoining those acts or practices which constitute such a violation; 2) for an Order directing compliance with this Ordinance, any Enforcement Order, permit, approval, condition or final decision or action pursuant to this Ordinance; or 3) for an order assessing penalties or any appropriate combination of actions.

B. Substantial and Immediate Danger to Health, Safety or General Welfare. If the Selectmen find that the violation of any provision of this Ordinance or the failure to comply with any Enforcement Order, permit, approval or final decision or action of the Selectmen or Decree of Court constitutes a substantial and immediate danger to the health, safety or welfare of any person(s), or property, or the environment of the Town of Fayette, the Selectmen may initiate immediate injunction proceedings to abate or correct such violation. The injunction proceedings may be instituted without recourse to the issuance of an Enforcement Order.

C. Recovery of Costs. In any action that the Town of Fayette institutes before a Court to enforce any provisions of this Ordinance, the prevailing party in such action shall be allowed to recover attorneys fees incurred in connection with such action.

Section 605 PENALTIES

A. Any person who violates any provision of this Ordinance, an Enforcement Order, permit, approval or decision of the Selectmen shall be subject to the following civil penalties, due and payable to the Town of Fayette:

1. Except for certain violations for which the Selectmen and the Violator agree to use the waiver procedures in Section 603, a penalty of not less than \$100 nor more than \$10,000 for each day of the violation shall be assessed.
2. Any Person who violates any provisions of this Ordinance may be ordered to correct or abate the violations.
3. The maximum civil penalty for violation of the Ordinance may exceed \$10,000 for each day of the violation when it can be shown that there has been a previous violation of the same Ordinance provision by the same Person within the 5 preceding years.
4. If the economic benefit resulting from the violation exceeds the applicable penalties, the maximum penalties may be increased for each day of the violation. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit shall, without limitation, include the costs avoided or enhanced value accrued at the time of the violation by the Violator not complying with the applicable legal requirements.

B. In setting penalties the following shall be considered:

1. Prior violations by the same Person;

2. The degree of environmental damage that cannot be abated or corrected;
3. The extent to which the violation continued;
4. Benefits derived by the Person as a result of the violation;
5. Importance of setting a civil penalty substantial enough to deter future violation;
6. Whether penalties have been imposed by another governmental agency for the same incident(s).

Each failure to Segregate Waste under Section 402, each violation recorded under Section 603 or each Disposal of Waste which is in violation of this Ordinance or any other violation of this Ordinance is deemed to be a separate violation. Every day that a violation exists shall be deemed a separate violation.

D. Payment of any penalty assessed shall be made in cash or by a certified check drawn on a recognized financial institution, made payable to "Town of Fayette" in an amount equal to the full extent of the penalty.

Section 606 JUDICIAL REVIEW

Any Person aggrieved by a final Selectmen action or decision in an enforcement or emergency proceeding pursuant to this Ordinance may seek judicial review in accordance with state law within thirty (30) days of the date of the final action.

Section 607 STAY

The filing of a complaint for Judicial Review shall not operate as a stay of the final action pending judicial review unless otherwise ordered by the Court.

32327.AD1

FAYETTE
WASTE DISPOSAL ORDINANCE

ENACTED: November __, 1991

FAYETTE WASTE DISPOSAL ORDINANCE

PART

- 1. GENERAL PROVISIONS
- 2. DEFINITIONS
- 3. PROHIBITION
- 4. FLOW CONTROL
- 5. OPERATIONS
- 6. PENALTIES AND ENFORCEMENT