

# Dayton Zoning Ordinance Index

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# ZONING ORDINANCE TOWN OF DAYTON, MAINE

## ARTICLE I: PREAMBLE

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

### **1.1 Short Title:**

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

### **1.2 Purpose:**

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

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

**1.3 Basic Requirements:**

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

**1.4 Legal Authority:**

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

**1.5 Effective Date of Ordinance and Ordinance Amendments:**

**A: Effective Date:**

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

**B. Amendments:**

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

**C. Repetitive Petitions:**

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

**1.6 Availability:**

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

**1.7 Validity and Severability:**

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

**1.8 Conflict with Other Ordinances:**

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

**1.9 Jurisdiction:**

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

## ARTICLE 2: NON-CONFORMANCES

### 2.1 Purpose

### 2.2 General

1. Transfer of Ownership
2. Repair and Maintenance

### 2.3 Non-Conforming Structures

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

### 2.4 Non-Conforming Uses

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

### 2.5 Non-Conforming Lots

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

### 2.1 Purpose:

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

### 2.2 General:

1. **Transfer of ownership:** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot subject to the provisions of this ordinance
2. **Repair and Maintenance:** This ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as Federal, State, or local building and safety codes may require.

### 2.3 Non-conforming Structures:

1. **Expansions:**

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

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

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

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

iii. In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 2.3.1(b)(i) and Section 2.3.1(c)(i), above.

d. An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.

## **2 Foundations:**

Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 2.3(3) Relocation, below.

## **3 Relocation:**

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board, or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on

adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with section 7.25. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

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

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

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

#### **4. Reconstruction or Replacement:**

Any non-conforming structure which is located less than the required setback from the normal high water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed regardless of the cause by more than 50% or less of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirements to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to section 2.3.1 above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total amount of footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 3 above.

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

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

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

The Use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on a water body, tributary stream or wetland, on the subject or adjacent properties, traffic flow, noise, and natural resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health

## **2.4 Non-conforming uses:**

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

### **1. Expansions:**

Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 2.3.1 above.

### **2. Resumption Prohibited:**

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use. This provision shall not apply to the resumption of use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five year period.

### **3. Change of Use:**

An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 2.3.5 above

## **2.5 Non-conforming Lots:**

### **1. Non-conforming Lots:**

A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and shore frontage can be met. Variances relating to setback or other requirements not involving lot size or shore frontage shall be obtained by action of the Board of Appeals.

### **2. Contiguous Built Lots:**

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

### **3. Contiguous Lots – Vacant or Partially Built:**

If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements

### **4. Vested Rights:**

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

## **ARTICLE 3 - ESTABLISHMENT OF DISTRICTS**

### **3.1. Zoning Districts**

### **3.2. Location of Districts and the Zoning Map**

### **3.3. Uncertainty of Boundary Location**

### **3.4. Division of Lots by District Boundaries**

### **3.5. Overlay Districts**

#### **3.1. Zoning Districts:**

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

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

#### **3.2 Location of Districts and the Zoning Map:**

##### **A. Location of Districts:**

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

B. Changes of the Official Zoning Map:

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

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

C. Replacement of Official Zoning Map:

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

**3.3 Uncertainty of Boundary Location:**

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

### **3.4 Division of Lots by District Boundaries:**

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

### **3.5 Overlay Districts:**

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

## ARTICLE 4: CONSTRUCTION OF LANGUAGE AND DEFINITIONS

### 4.1 Construction of Language

### 4.2 Definitions

#### 4.1 Construction of Language:

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

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

The present tense includes the future tense,

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

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

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

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

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

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

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

#### 4.2 Definitions:

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

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

**Accessory Use or Structure:** A use, structure or building of a nature customarily incidental and subordinate to those of the principal use, structure or building. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal

structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Commercial Use:** The use of lands, buildings or structures, other than a “home occupation”, defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Emergency Operations:** Emergency operations shall include operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

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

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

**Eutrophication:** The process of nutrient enrichment of water bodies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Garage Sale: See Yard Sale.**

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

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

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

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

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

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

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

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

**Increase in non-conformity of a structure:** Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the non-conformity such as but not limited to reduction to water body, tributary stream, or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of non-conformance of the existing structure shall not be considered to increase non-conformity. For example there is no increase in non-conformity with the setback requirement for water bodies, wetland, or tributary streams if the expansion extends no further into the required setback area than does the existing structure from that water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions that in-fill irregularly shaped structures.

**Individual Private Campsite:** an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fireplaces, or tent platforms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Lot, Shorefront:** any lot abutting a water body.

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

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

**Marina:** a business establishment having frontage on navigable water and, its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

**Market Value:** the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing price levels.

**Mineral Exploration:** hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**Mineral Extraction:** Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat or other like material from its natural location, and transports the product removed away from the extraction site.

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

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

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

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

**Non-Conforming Lot:** a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which is located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Public Facility:** Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

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

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

**Recreational Facility:** a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

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

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

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

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

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

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

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

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

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

**Road:** A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

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

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

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

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

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

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

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

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

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

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

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

**Structure:** anything temporarily or permanently located, built, constructed, or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind anything constructed or erected on or in the ground, The term includes structures temporarily or permanently located, such as decks and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A. section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32. Section 4700-E subsection 3-C; or wells or water wells as defined in Title 32. Section 4700-E subsection 8

**Subdivision:** A division of land as defined in Title 30-A, Section 4401 of the Maine Revised Statutes Annotated. Without limiting or expanding the foregoing, a subdivision is, in general terms, the division of a lot of land into three or more lots, or the creation of three or more dwelling units on a lot of land, within a single five year period.

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

**Substantial Start:** completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

**Subsurface Sewage Disposal System:** a collection of treatment tank(s), disposal area(s) holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditches, alternative toilets, or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 413 Subsection 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

**Sustained Slope:** A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Timber Harvesting:** The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for construction approved under this Ordinance. "Timber Harvesting" does not include the cutting or removal of vegetation within the Shoreland zone when associated with any other land use activities

**Tree:** A woody perennial plant with a well defined trunk(s) at least two (2) inches in diameter at four and one half feet (4.5) above the ground, with a more or less definite crown and reaching a height of at least ten (10) feet at maturity

**Tributary Stream:** a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the terms "stream" or "brook" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

**Upland Edge of a wetland:** the boundary between upland and wetland. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

**Variance:** A variance is a relaxation of the terms of this ordinance. Variances permissible under this ordinance are limited to dimensional and area requirements. No variance shall be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted exclusively because of the presence of nonconformities in the immediate or adjacent areas.

**Vegetation:** all live trees, shrubs, ground cover and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 ½ feet above ground level.

**Vehicle sales:** Any business which involves a parking or display area for the sale of new or used cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, mobile homes, or similar products.

**Volume of Structure:** the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior face of these walls and roof.

**Water Body:** any stream or brook.

**Water Crossing:** any project extending from one bank to the opposite bank of a brook or stream, whether under, through, or over the water course. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, and cables as well as maintenance work on these crossings.

**Wetland, Freshwater:** swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

- (a) of ten or more contiguous acres; or of less than ten contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of ten acres; and
- (b) Inundated or saturated by surface or ground water at a frequency and for duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Wetlands Associated with Rivers:** wetlands contiguous with or adjacent to a river, and which during normal high water, are connected by surface water to the river. Also included are wetlands which are separated from the river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the river. Wetlands associated with rivers are considered to be part of that river.

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

**Yard Sale:** The term “yard sale” shall include so called garage sales, porch sales, tag sales, and the like. Yard Sales shall not be for more than five (5) consecutive days or more than twice a year.

**Year:** Any period of twelve consecutive calendar months.

## **ARTICLE 5 - DISTRICT REGULATIONS**

### **5.1 Purpose**

### **5.2 Table of Dimensional Requirements**

### **5.3 Table of Land Uses**

### **5.4 General Requirements**

#### **5.1. Purpose**

##### **MIXED USE:**

To promote intensive commercial, industrial and residential development in areas that have adequate transportation infrastructure and are located in proximity to existing commercial and industrial areas

##### **RURAL FIELD:**

To allow for residential and low- intensity commercial uses while protecting Dayton's rural character in areas with views of open fields from existing public roads

##### **RURAL FOREST:**

To allow for residential and low- intensity commercial and industrial uses while protecting and preserving forested backland for recreational purposes

##### **RIVER BUFFER:**

To fulfill the purpose of the state's Mandatory Shoreland Act {38 MRSA Section 435-449

##### **CRITICAL RURAL:**

To limit development in large, contiguous areas that contain significant natural resources

##### **COMMERCIAL / INDUSTRIAL:**

To promote a zone dedicated to the development of commercial and industrial ventures that does not conflict with residential development and is accessible by the towns limited arterial highway system. The zone is further intended to maintain the existing extractive industries in an area that does not conflict with other less intensive land uses

**VILLAGE DISTRICT:**

1. To provide for areas of compact residential growth in such a manner and at such locations as are compatible with existing development and the ability of the community to provide essential services and utilities.
2. To provide an area where the location of public facilities can serve the greatest number of people as economically as possible.
3. To allow a maximum diversity of uses, while protecting the public health and safety, environmental quality and economic well-being Of the Municipality, by controlling those uses which, by the virtue of their external effects (waste discharge, noise, glare, fumes, smoke, dust, odors or traffic) could otherwise create nuisances or unsafe or unhealthy conditions.

**RESOURCE PROTECTION OVERLAY DISTRICT:**

1. In the interest of wise land use, public health, convenience, safety and welfare, the regulations of this District are intended to guide the use of areas of land with extended periods of high water tables:
2. To control the development of structures and land uses on naturally occurring wetlands, which would contribute to pollution of surface water and ground water by sewage.
3. To prevent the destruction of natural wetlands which provide flood protection and storm water storage, recharge of groundwater supply, and augmentation of stream flow during dry periods.
4. To prevent unnecessary or excessive expenses to the town to provide and maintain essential services and utilities which arise because of inharmonious use of wetlands.
5. To encourage those uses that can appropriately and safely be located in wetland areas.
6. To protect presently existing natural wetland wildlife habitat.
7. To protect the storage capacity of flood plains and to assure retention of sufficient floodway area to convey flood flows, which reasonably can be expected to occur.

**SHORELAND OVERLAY DISTRICT:**

1. To prevent and control water pollution
2. To protect fish spawning grounds, aquatic life, bird and other wildlife habitat;
3. To conserve shore cover, and visual as well as actual points of access to water bodies

4. To conserve natural beauty and open space; and
5. To anticipate and respond to the impacts of development

**5.2 Table of Dimensional Requirements:**

Lots and structures in all Districts other than the Saco River Overlay District, shall meet or exceed the following minimum requirements: Lots and structures in the Saco River Overlay District shall conform to the most recent regulations as adopted by the Saco River Corridor Commission.

**Village District: (V)**

The Village District is comprised of the land shown on the Official Zoning Map of the Town of Dayton and more accurately described in a report done by Amos J. Gay for the Town of Dayton, dated Dec. 2006

**Minimum Lot Size 1.377 ac. (60,000 sq. ft.)**

<b>Minimum Road Frontage</b>	<b>125 ft. (B)</b>
<b>Minimum Front Setback</b>	<b>50 ft. (C, D, E)</b>
<b>Minimum Rear Setback</b>	<b>30 ft. (E)</b>
<b>Minimum Side Setback</b>	<b>30 ft. (E)</b>

<b>Maximum Lot Coverage</b>	<b>Residential</b>	<b>25%</b>
	<b>Non-Residential</b>	<b>40%</b>

**Maximum Building Height 35 ft. (F)**

**Mixed Use District: (M)**

**Minimum Lot Size: 1 ac. (43,560 sq. ft.) for commercial development, 2 ac. (87,120sq. ft.) for residential development.**

The Mixed Use District is comprised of all land located within approximately 1,000 feet linear distance from the sections of Route 5, and 35. Along Route 5 on the Southerly side beginning at the intersection of Gould Rd., Westerly to the intersection of the Rumery Road, and on the Northerly side continuing to the Hollis Town line, and Route 35 on the Easterly side, from Route 5 to the Lyman Town Line, as shown on the Dayton Land Use Map.

**Minimum Road Frontage 200 ft. (B)**

<b>Minimum Front Setback</b>		<b>60 ft. (C, D, E)</b>
<b>Minimum Rear Setback</b>		<b>50 ft. (E)</b>
<b>Minimum Side Setback</b>		<b>50 ft. (E)</b>

<b>Maximum Lot Coverage</b>	<b>Residential</b>	<b>25%</b>
	<b>Non-Residential</b>	<b>40%</b>

<b>Maximum Building Height</b>		<b>35 ft. (F)</b>
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**Rural Fields District: Fields**

All land located within a 2000-foot linear distance of corridors with views of open fields as well as backland that sits between these areas. The districts boundaries encompass all of the town’s land located South and East of the Mixed Use District and areas located within 2000 feet of Route 5 and the section of Hollis Road located South of Buda Road.

**Minimum Lot Size:**

- Ø For single-lot development: 3 acres (130,680 square feet).
- Ø For non-clustered subdivision development: 5 acres (217,800 square feet)
- Ø For clustered subdivision development: 1 acre (43,560) individual lot size, but shall not exceed an overall density of 1 dwelling unit per 2.5 acres of total acreage

<b>Minimum Road Frontage</b>		<b>275 ft. (B)</b>
<b>Minimum Front Setback</b>		<b>75 ft. (C, E)</b>
<b>Minimum Rear Setback</b>		<b>50 ft. (E)</b>
<b>Minimum Side Setback</b>		<b>50 ft. (E)</b>

<b>Maximum Lot Coverage</b>	<b>Residential</b>	<b>25%</b>
	<b>Non-Residential</b>	<b>40%</b>

<b>Maximum Building Height</b>		<b>35 ft. (F)</b>
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**Rural Forest District: Forest**

This district encompasses much of the Northwest portion of Dayton to the North of Route 5, with the exception of land that is part of the River Buffer or Critical Rural Districts. This area is mostly forested and contains large sections of undeveloped back land, much of which is currently used for recreational purposes.

**Minimum Lot Size:**

- Ø For single-lot development: 3 acres (130,680 square feet).
- Ø For non-clustered subdivision development: 5 acres (217,800 square feet)
- Ø For clustered subdivision development: 1 acre (43,560) individual lot size, but shall not exceed an overall density of 1 dwelling unit per 2.5 acres of total acreage

<b>Minimum Road Frontage</b>	<b>275 ft. (B)</b>
<b>Minimum Front Setback</b>	<b>75 ft. (C,E)</b>

**(Note: Front Yard setbacks on the Westerly side of Clarks Mills Road may be reduced to 60 feet).**

<b>Minimum Rear Setback</b>	<b>50 ft. (E)</b>
<b>Minimum Side Setback</b>	<b>50 ft. (E)</b>

<b>Maximum Lot Coverage</b>	<b>Residential</b>	<b>25%</b>
	<b>Non-Residential</b>	<b>40%</b>

<b>Maximum Building Height</b>	<b>35 ft. (F)</b>
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**Commercial/Industrial District: (C.I.)**

All lands located to the West and South of Rte. 5 and Rte. 35 as shown on the Dayton Land Use map.

**Minimum Lot Size 2 ac. (87,120 sq. ft.)**

<b>Minimum Road Frontage</b>	<b>200 ft. (B)</b>
<b>Minimum Front Setback</b>	<b>100 ft. (C)</b>
<b>Minimum Rear Setback</b>	<b>50 ft. (E)</b>
<b>Minimum Side Setback</b>	<b>50 ft. (E)</b>

<b>Maximum Lot Coverage</b>	<b>Residential</b>	<b>25%</b>
	<b>Non-Residential</b>	<b>40%</b>

<b>Maximum Building Height</b>	<b>35 ft. (F)</b>
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**Critical Rural District: (C.R.)**

The contiguous undeveloped area located between Route 35, and Hight Road and Dyer Road. This district encompasses all land within 250 feet from the upland edge of the wetland associated with Runnels Brook. This area contains wetlands, floodplains, animal habitat and other critical natural resources. It also abuts several recently developed residential subdivisions and its edges are increasingly threatened by development.

**Minimum Lot Size 5 ac. (217,800 sq. ft.)**

<b>Minimum Road Frontage</b>	<b>375 ft. (B)</b>
<b>Minimum Front Setback</b>	<b>75 ft. (C,E)</b>
<b>Minimum Rear Setback</b>	<b>75 ft. (E)</b>
<b>Minimum Side Setback</b>	<b>75 ft. (E)</b>

<b>Maximum Lot Coverage</b>	<b>Residential</b>	<b>05%</b>
	<b>Non-Residential</b>	<b>10%</b>

<b>Maximum Building Height</b>	<b>35 ft. (F)</b>
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**Shoreland Overlay District: (S)**

**Minimum Lot area: 40,000sq. ft. per residential dwelling unit, and 60,000 sq. ft. for governmental, institutional, commercial, or industrial per principal structure or use .**

<b>Minimum setback from the normal high water line of a great pond</b>	<b>150 ft.</b>
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<b>Minimum setback from a stream</b>	<b>75 ft</b>
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<b>Minimum setback from a wetland</b>	<b>75ft.</b>
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**Minimum shore frontage of 200 feet per residential dwelling unit, and minimum shore frontage of 300 feet for governmental, institutional, commercial, or industrial uses per principal structure**

<b>Maximum building height</b>	<b>35 ft. SEE NOTE (F)</b>
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<b>Maximum Lot Coverage</b>	<b>SEE NOTE (G)</b>
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**Resource Protection Overlay District: (R.P.)**

**Minimum Setback 150 feet horizontal distance from normal high water line**

A. The Resource Protection District includes those areas which are wetland, have been identified as wildlife/waterfowl habitat by the Maine Department of Inland Fisheries and Wildlife, contain steep slopes, or other critical areas identified in the Towns Comprehensive Plan as requiring protection from development. The district shall also include all land within 150 feet of Cooks Brook, Red Brook (Runnells Brook), Swan Pond Creek, Pot Hook Brook, Kimball Brook, and Buzzell Brook (Smith Brook or Great Springs Brook)

B. Only those non- structural uses designed as permitted uses or conditional uses in the Resource Protection District of the Land Use Table shall be allowed in the Resource Protection District.

- C. No person shall remove, fill, dredge, or otherwise alter any part of the Resource Protection District without obtaining a conditional use permit from the planning Board, in addition to all necessary permits from the Maine Department of Environmental Protection as required.

### **River Buffer District:**

All areas located within 250 linear distance of the high water mark of the Saco River. The 250-foot distance lies within the jurisdiction of the Saco River Corridor Commission and corresponds with the states mandatory Shoreland Zoning district for areas along rivers.

### **Minimum Lot Size 3ac. (130,680 sq. ft.)**

**All land within 500 feet of the Saco River falls within the jurisdiction of the Saco River Corridor Commission**

### **NOTES:**

- (A) No portion of any lot created after the effective date of adoption or amendment of this Ordinance and lying within the Resource Protection District may be used to meet the dimensional requirements of other Districts in which the remainder of the lot is situated. Where a residential structure exists on the effective date of adoption or amendment of this Ordinance, no lot containing such structure shall be created which does not contain an area consistent with the minimum lot size required in the district in which it is located.
- (B) A lot abutting a public road, private road, or right of way shall have a minimum road frontage according to the above table. A lot abutting a stream or wetland in any district shall have minimum shore frontage of 200 feet, except in the Critical Rural District where the minimum shore frontage shall be 300’.
- (C) A front yard abutting a public road, a private road or a right of way shall have a minimum depth, measured from the edge of the right of way line, according to the above table. The depth of any yard abutting a public road, a private road, or a right of way shall conform to the front yard requirements. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after Sept. 22, 1971.
- (D) Where a proposed structure is abutted on both sides by existing structures whose setback from the road is less than the required setback, the setback of the proposed structure may be reduced to that of the abutting structures upon approval of the Planning Board in accordance with the provisions of Article 6.

- (E) Except in the Shoreland Overlay and Resource Protection Districts, driveways and parking spaces shall not be considered as part of any setback requirements. In the Shoreland Overlay and Resource Protection Districts, driveways and Parking areas shall meet the setback from a water body or wetland required by structures. The water body or wetland setback provision shall neither apply to structures which require direct access to the water as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water dependent uses. Stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland; and that the applicant demonstrates that no reasonable access alternative exists on the property.
- (F) On any new building and expansions of existing structures the highest part of any eaves or parapet wall shall not be more than 35 feet. In the Shoreland Zone principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection and Shoreland Overlay District shall not exceed 35 feet in height. In the Shoreland Zone this structure height shall be the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure. Features of buildings and structures, such as chimneys, silos, towers, ventilators, and spires may exceed 35 feet in height, but shall be set back from the nearest lot line a distance not less than the height of such features or structures, unless a greater setback is required by other provisions of this Ordinance.
- (G) Maximum lot coverage shall include a 25% potential for expansion of floor space and 50 percent for expansion of parking areas. Maximum lot coverage, including all structures, parking lots, and other non-vegetated surfaces, in the Shoreland Zone shall be limited to 20%

### 5.3 Table of Land Uses:

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

Key: P Permit from Code Officer after Site Review

N Not Permitted

PB Requires Planning Board Review

\* Subject to Specific Performance Standards

Proposed Use	ORD REF	V	R.P.	S.	M	FOREST	FIELDS	C.R.	C.I.
Accessory Structures	5.4.(2)	P	PB	PB	P	P	P	P	P
Active Outdoor Recreation		PB	PB	PB	PB	PB	PB	PB	PB
Agriculture, Nurseries, Gardening	7.5	P	P	P	P	P	P	P	P
Amusement centers	7.1	PB	N	N	PB	PB	PB	N	PB
Animal Husbandry	7.11	N	N	N	P	P	P	PB	PB
Auto Junk Yard*		N	N	N	PB	PB	PB	N	PB
Auto Repair Garage*		N	N	N	PB	PB	PB	N	PB
Auto Service Station*		N	N	N	PB	PB	PB	N	PB
Banks		PB	N	N	P	PB	PB	N	P
Bed and breakfast	7.2	PB	N	N	PB	PB	PB	PB	N
Boat and RV Sales and Service		N	PB	PB	PB	N	N	N	P
Bottle Club		N	N	N	PB	PB	PB	PB	PB
Bulk Fuel Storage		N	N	N	N	N	N	N	PB
Bus. and Professional Offices(1)		PB	N	N	PB	PB	PB	PB	P

Proposed Use	ORD REF	V	R.P.	S.	M	FOREST	FIELDS	C.R.	C.I.
Bus. and Professional Offices(2)		N	N	N	PB	PB	PB	N	P
Campgrounds	7.3	N	PB	PB	PB	PB	PB	PB	N
Car Wash		PB	N	N	PB	PB	PB	PB	PB
Cemeteries		PB	N	N	PB	PB	PB	PB	N
Churches		PB	N	N	PB	PB	PB	PB	PB
Cluster Development	7.17	N	N	N	N	PB	PB	PB	N
Commercial Recreation	7.6	N	N	N	PB	PB	PB	PB	N
Daycare Facility		PB	N	N	PB	PB	PB	PB	N
Daycare Home		PB	N	N	PB	PB	PB	PB	N
Duplexes	5.4 (1)	P	N	N	P	P	P	P	N
Earth Moving Activities	7.7	N	N	N	PB	PB	PB	N	PB
Elderly Housing		PB	N	N	PB	PB	PB	N	N
Flea Market		N	N	N	PB	PB	PB	N	PB
Forestry		P	P	P	P	P	P	P	P
Funeral Homes		N	N	N	PB	PB	PB	N	PB
Golf Course		N	PB	PB	PB	PB	PB	PB	N
Home Occupations*	7.7	P	N	P	P	P	P	P	N
Individual Private campsites	7.4	N	P	P	P	P	P	P	N
Industrial1		PB	N	N	PB	PB	PB	PB	PB
Industrial2		N	N	N	PB	PB	PB	PB	PB
Inn	7.10	PB	N	N	PB	PB	PB	PB	N
Kennels		PB	N	PB	PB	PB	PB	N	N
Libraries, Museums		PB	N	N	PB	PB	PB	PB	PB
Manufacturing		N	N	N	PB	PB	PB	N	PB
Medical Offices & Clinic		N	N	N	PB	PB	PB	PB	PB
Mobile Home Parks*	7.13	N	N	N	PB	PB	PB	N	N
Motels-Hotels	7.10	PB	N	N	PB	PB	PB	PB	PB
Motor Vehicle Sales		N	N	N	N	N	PB	N	PB
Multi-Family Dwellings*	7.14	PB	N	N	PB	PB	PB	PB	N
		V	R.P.	S	M	Farm	Fields	C.R.	C.I.

Proposed Use	ORD REF	V	R.P.	S.	M	FOREST	FIELDS	C.R.	C.I.
Municipal Uses		PB	PB	PB	PB	PB	PB	PB	PB
Neighborhood Convenience Store		PB	N	N	PB	PB	PB	PB	PB
Nursing Homes		PB	N	N	PB	PB	PB	PB	N
Open Space		P	P	P	P	P	P	P	P
Passive Outdoor Recreation		P	P	P	P	P	P	P	N
Personal Services1		PB	N	N	PB	PB	PB	PB	PB
Personal Services2		N	N	N	PB	PB	PB	PB	PB
Private Clubs		N	N	N	PB	PB	PB	N	N
Public and Private Parks		P	PB	PB	P	P	P	P	N
Public Utilities		N	N	N	PB	PB	PB	N	PB
Research and Testing Facilities		N	N	N	PB	PB	PB	N	PB
Restaurants	7.15	PB	N	N	PB	PB	PB	N	N
Restaurant Drive-In		PB	N	N	PB	PB	PB	N	PB
Restaurants Fast Food		PB	N	N	PB	PB	PB	N	N
Retail Stores (1)		PB	N	N	PB	PB	PB	N	PB
Retail Stores (2)		N	N	N	PB	PB	PB	N	PB
Schools- Public or Private	7.16	PB	N	N	PB	PB	PB	PB	N
Seasonal Farm Stands		P	P	P	P	P	P	P	P
Signs*	6.13	P	N	N	P	P	P	P	P
Single Family Dwelling		P	N	N	P	P	P	P	N
Spreading/Storage of Sludge		N	N	N	P	P	P	P	N
Transmission Towers		N	N	N	PB	PB	PB	PB	PB
Veterinary Clinic	7.11	N	N	N	PB	PB	PB	N	PB
Warehouse and Outdoor Storage		N	N	N	PB	PB	PB	N	PB
Wholesale Business		N	N	N	PB	PB	PB	N	PB
Yard Sales		Y	Y	Y	Y	Y	Y	Y	Y
Uses similar to permitted uses		P	P	P	P	P	P	P	P
Uses similar to conditional uses		PB	PB	PB	PB	PB	PB	PB	PB

Proposed Use	ORD REF	V	RP	S	M	FOREST	FIELDS	C.R.	C.I.
Uses similar to prohibited uses Notes		N	N	N	N	N	N	N	N

1) 2500 Sq. Ft. or less or 6 employees or less

## **5.4 General Requirements:**

The following requirements shall apply to all structures:

### **1. Principal Buildings:**

If more than one principal building is constructed on a single parcel of land, all dimensional requirements, including lot area, shall be met separately for each principal building. If more than one dwelling unit is constructed or placed on a single parcel of land within the Shoreland Zone, the minimum lot area and the minimum shore frontage shall be met for each dwelling unit.

### **2. Accessory Buildings:**

No garage or other accessory building larger than 35 sq.ft. (i.e. 5' X 7') in total floor area shall be located in a required front yard. When located to the rear of the main building, and separate there from, the accessory building set back may be reduced to not less than one half that required for side or rear lot lines, provided that all accessory buildings, shall meet the setback requirements of Section 5.2 from the normal high water elevation line of a body of water.

### **3. Required Yard Space Shall Serve Only One Lot:**

No part of the yard or other open space required on any lot for any building shall be included as a part of the yard or open space similarly required for another building or lot.

### **4. Visibility at Corner Lots:**

All corner lots shall be kept free from visual obstruction for a distance of 25 feet measured along the intersecting street lines.

### **5. Manufactured Housing Units:**

All manufactured housing units to be located on a lot within the Town of Dayton shall be manufactured after June 5, 1976, and the Planning Board shall regulate and enforce this Ordinance.

### **6. Setback Verification:**

In all cases where a proposed building will be located within two times the required front yard, side yard, or rear yard distance from a property line, public road sideline, or private road sideline, upon placement of the foundation footings and before further construction may proceed, the building site shall be examined by a Professional Land Surveyor in order to verify that all setback requirements will be met.

## **ARTICLE 6 - PERFORMANCE STANDARD**

- 6.1 General**
- 6.2 Access to Lots**
- 6.3 Air Emissions**
- 6.4 Buffer Areas**
- 6.5 Explosive Materials**
- 6.6 Glare**
- 6.7 Landscaping**
- 6.8 Noise**
- 6.9 Off-Street Parking and Loading**
- 6.10 Refuse Disposal**
- 6.11 Road Construction**
- 6.12 Sanitary Provisions**
- 6.13 Signs**
- 6.14 Storm Water Run-Off**
- 6.15 Erosion and Sedimentation Control**
- 6.16 Setbacks and Screening**
- 6.17 Water Quality**
- 6.18 Traffic**
- 6.19 Flood Protection**
- 6.20 Soil Suitability for Construction**
- 6.21 Subsurface Sewage Disposal**
- 6.22 Other On-Site Sewage Disposal Systems**

### **6.1 General:**

These standards shall apply to all new or expanded uses of land and buildings, which are listed as Permitted or Conditional uses in Article 4 of this Ordinance. Prohibited uses include all uses which would be obnoxious or injurious because of odor, dust, smoke, refuse matter, fumes, noise, vibration or waste materials, or which would be dangerous to the health or safety of the community or to the community's disturbance or annoyance, notwithstanding any other provisions of this Ordinance and applicable State and Federal laws and regulations. Plans for the effective control and/or elimination of same shall be presented to the Planning Board for approval. When the effects of use are uncertain, the Code Enforcement Officer, after prior notification to and at the expense of the applicant, shall employ such independent recognized consultant as necessary to ensure compliance with all requirements of this Code specifically related to the public health, safety and welfare and the abatement of nuisances. The estimated costs of such studies shall be deposited with the Town Clerk prior to their undertaking.

### **6.2 Access to Lots:**

- A. No building permit shall be issued to erect any structure on a lot without frontage on a public way unless an access road meeting the following criteria has been constructed within a deeded right-of-way, a minimum of fifty feet in width. The access road shall be

constructed to a minimum width of twelve feet if serving one dwelling unit, and twenty (20) feet if serving two or three dwelling units. The access road shall contain a minimum depth of fifteen inches of bank run gravel and have drainage ditches and culverts at all appropriate points. Such an access road shall serve no more than three dwelling units. Any access road serving between four and eight dwelling units shall meet the road design and construction standards of the Dayton Planning Board Standards for reviewing land subdivisions.

- B. The maintenance of the easement associated with back lots shall be the responsibility of those person(s) requiring the use of that easement for access. The maintenance requirement shall be stated in the deed granting the access easement.
- C. All dead end traveled ways serving two (2) or more lots must install a turn-around suitable for emergency vehicles
- D. All lots must meet the dimensional requirements of article 5

### **6.3 Air Emissions:**

No emission of dust, ash, smoke or other particulate matter which can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, or which can cause soiling beyond the property boundaries, is permitted which is composed of solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air at the point of emissions from a chimney stack. The emission of non-farming, odorous matter in such quantities, as determined by the C.E.O., to be offensive at the lot boundaries is prohibited.

### **6.4 Buffer Areas:**

No industrial or commercial buildings or uses shall abut a residential use, unless a landscaped buffer strip is provided to visually screen the uses. Where no natural vegetation can be maintained, or due to varying site conditions the landscaping may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: Loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, and waste collection and disposal areas. Where a potential safety hazard to small children would exist, physical screening /barriers shall be used to deter entry to such premises. The buffer areas shall be maintained and vegetation replaced to insure continuous year round screening.

### **6.5 Explosive Materials:**

No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, unless they are located at least 75 feet from any lot line, town way, or interior roadway. For underground storage of the above materials, the minimum setback distance shall be 50 feet. All materials shall be stored in a manner and location which is in compliance with

appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

**6.6 Glare:**

Lighting may be used which serves security, safety and operational needs but does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings. direct or indirect illumination shall not exceed 0.5 foot-candles upon abutting residential properties.

**6.7 Landscaping:**

The landscape shall be preserved in its natural state insofar as practical, by minimizing tree removal and grade changes in keeping with the general appearance of neighboring developed areas. Landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses. All parking lots shall be landscaped along the property boundaries with shrubbery, trees and other landscape materials. Large parking lots shall provide a 2 ½ “ caliper shade tree per 20 parking spaces (6 trees per acre) located at representative points throughout the lot.

**6.8 Noise.**

Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume (please refer to table below). The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this ordinance shall be as established by the time period and type of land use listed below. Sound pressure levels shall be measured on a sound level meter at all major lot lines of the proposed site, at a height of at least four (4) feet above the ground surface.

Sound Pressure Level Limits  
(Measured in dB (a) scale)

7 a.m.-10 p.m.

55

10 p.m.-7 a.m.

45

On a site abutting any residential use, construction activities occurring between 8 p.m. and 7 a.m. shall be subject to the maximum permissible sound level specified for industrial establishments.

1. Noises created by all agricultural, excavation, construction and maintenance activities between 7:00 a.m. and 8:00 p.m.
2. The noises of safety signals, warning devices, and emergency pressure relief valves and any other emergency activity.

3. Traffic noise on public roads, or noise created by airplanes and railroads.

## **6.9. Off-Street Parking and Loading:**

### **A. General.**

1. A permitted use in any district shall not be extended, and no structure shall be constructed or enlarged, unless off-street automobile parking space is provided in accordance with the following requirements.
2. Parking areas with more than two parking spaces shall be arranged so that it is not necessary for vehicles to back into the street.
3. Each off-street parking area shall have no more than two openings onto the same street, each opening not to exceed 26 feet in width.
4. Required off-street parking for all land uses shall be located on the same lot as the principal building or facility
5. Off-street parking and loading spaces for non-residential uses, where not enclosed within building, shall be effectively screened from view by a continuous landscaped area not less than six feet in height, unless waived by the Planning Board for expressed reasons, along exterior lot lines adjacent to residential properties and all public roads, except that driveways shall be kept open to provide visibility for entering and leaving. No off-street parking and loading shall be permitted within the front setback or any setback adjoining a public street, except as specifically authorized in this ordinance.
6. The joint use of a parking facility by two or more principal buildings or uses may be approved as an administrative appeal by the Board of Appeals where it is clearly demonstrated that said parking facilities would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of such establishments.
7. Parking spaces shall be provided as required and made available for use prior to the issuance of the Certificate of Occupancy.

### **B. Additional Requirements for Commercial and Industrial Establishments.**

1. Access points from a public road to commercial and industrial operations shall be so located as to minimize traffic congestion and to avoid generating traffic on local access streets of a primarily residential character.
2. All parking areas, driveways and other areas serving 10 or more vehicles shall either be paved with bituminous concrete or an equivalent surfacing over a gravel sub-base at

least 6” in thickness, or have a gravel surface at least 12” in thickness and shall have appropriate bumper or wheel guards where needed.

3. All driveway entrances and exits shall be kept free from visual obstructions higher than three (3) feet above street level for a distance of 25 feet measured along the intersecting driveway and street lines in order to provide visibility for entering and leaving vehicles.
4. Loading facilities shall be located entirely on the same lot as the building or use to be served so that vehicles and containers shall not be located for loading or storage upon any town way.
5. The following minimum off-street loading bays or berths shall be provided and maintained in the case of new construction, alterations, and changes of use:

Retail, office, consumer services, wholesale, warehouse and industrial operations with a gross floor area of more than 5,000 square feet require the following:

5,001	to	20,000 sq. ft.		1 bay
20,001	to	50,000 sq. ft.		2 bays
50,001	to	100,000 sq. ft.		3 bays
100,001	to	150,000 sq. ft.		4 bays
150,001	to	300,000 sq. ft.		5 bays

Each 150,000 square feet over 300,000 square feet requires 1 additional bay. No loading docks shall be on any street frontage. Provisions for handling all freight shall be on those sides of any buildings which do not face on any street or proposed streets.

C. Parking Lot Design Criteria (Not applicable to single family dwellings and duplexes).

1. Vehicular Entrance and Exit.

Entrances and exits should be clearly identified by the use of signs, curb cuts, and landscaping.

Entrance/exit design should be in conformance with the standards of the Maine Department of Transportation traffic personnel for size, location, sight-distance, grade separation, and possible future changes in highway alignment on any affected public roads.

2. Interior Vehicular Circulation.

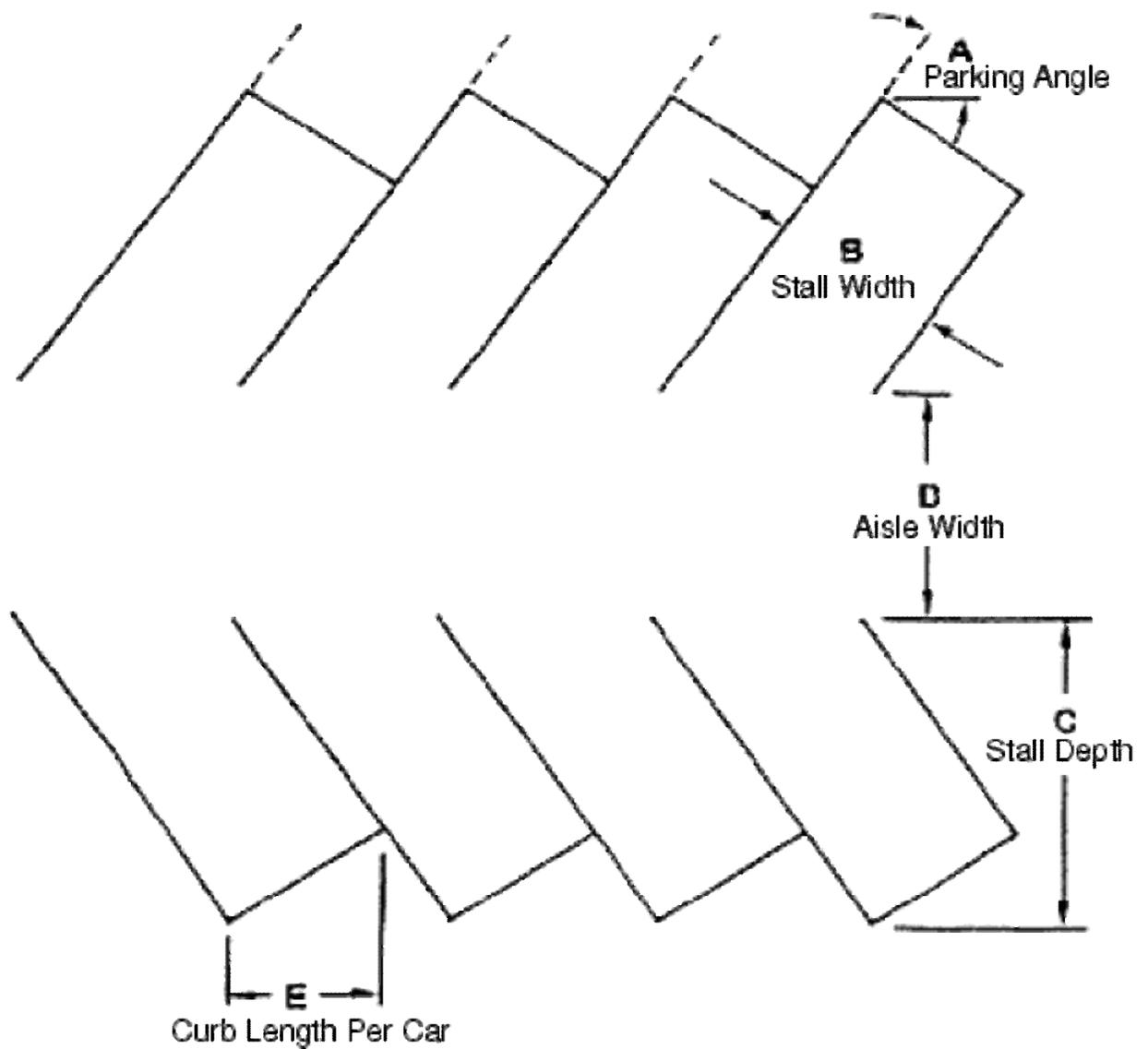
- a. Major interior travel lanes should be designed to allow continuous and uninterrupted traffic movement.
- b. Enclosures, such as guardrails, curbs, fences, walls, and landscaping, should be used to identify circulation patterns of parking areas and to restrict driving

movements diagonally across parking aisles, but not to reduce visibility of oncoming pedestrians and vehicles.

### 3. Parking

- a. Access to parking stalls should not be from major interior travel lanes, and shall not be immediately accessible from any public way.
- b. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles
- c. Parking aisles should be oriented perpendicular to stores or businesses for easy pedestrian access and visibility.
- d. All parking spaces and access drives shall be at least five (5) feet from any side or rear lot line, except for the additional requirements in buffer yards.
- e. Parking stalls and aisle layout shall conform to the below standards.

Minimum Parking Space and Aisle Dimensions					
Angle	Type	Stall width	Stall depth	Aisle width	Curb length
A		B	C	D	E
0	Compact	8.0	8.0	12.0	22.0
	Standard	9.0	9.0	12.0	22.0
45	Compact	8.0	19.1	14.0	11.3
	Standard	9.0	19.8	13.0	12.7
60	Compact	8.0	20.4	19.0	9.2
	Standard	9.0	21.8	18.0	10.4
70	Compact	8.0	20.6	20.0	8.5
	Standard	9.0	21.0	19.0	9.6
90	Compact	7.5	15.0	24.0	7.5
	Standard	9.0	20.0	24.0	9.0



- f. In paved parking areas painted stripes should be used to delineate parking stalls. Stripes should be a minimum of 4" in width. Where double lines are used, they should be separated a minimum of 1'0" on center
- g. In aisles utilizing diagonal parking, arrows should be painted on the pavement to indicate proper traffic flow.
- h. Bumper and/or wheel stops should be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.

- i. Parking spaces shall be provided to conform with the number required in the following schedule.

Activity	Minimum required parking
Residential	
with 2 or more bedrooms	2 spaces per dwelling unit
with 1 bedroom	1 ½ spaces per dwelling unit
Elderly housing	1 space per dwelling unit
Tourist home, boarding, lodging house, motel, hotel, inn	1 space per room/unit rental and for each employee on the largest shift
Church, Chapel	1 space per three seats based upon max. seating capacity
Schools	
primary	1.5 spaces per classroom
secondary	8 spaces per classroom
post-secondary	1 space for each student and 1 space for each faculty and staff member
Child care facility	1 space for every 4 children facility is licensed to care for
Private clubs or lodges	1 space per every seventy-five (75) square feet of floor space
Theatre, auditoria, public assembly	1 space per three seats based upon max. seating
Funeral homes	1 space for every 100 feet of floor space
Medical care facilities	1 space for every three (3) beds and every two (2) employees on the maximum working shift
Offices, Banks	1 space for every 150 sq. ft. of floor space
Medical offices (MD's, DO's Dentists)	10 spaces for each doctor, dentist, or other medical practitioner.
Veterinarian clinic, kennel	5 spaces/veterinarian
Retail and service businesses	1 space for every 150 sq. ft. of floor space

Barber/beauty shop	4 spaces/chair
Restaurant	1 space per three seats based upon max. seating capacity
Industrial Businesses	1 space/employee on the maximum working shift
Warehouse, wholesale	1 space/500 sq.ft. floor area business
Flea market	3 spaces/table
Mixed Use	Total of individual uses
Automobile repair garages and gasoline filling stations	5 spaces for each bay or area used for repair work
Library, museum, art gallery	1 space for each 150 sq. ft. of floor space
Marina	1 space for each boat slip and mooring.
Commercial recreation facility, fitness spa	1 space for each 100 sq. ft. of floor area

**NOTES**

1. Where the calculation of the aforementioned parking spaces results in a fractional part of a complete parking space, the parking spaces required shall be construed to be the next highest number.
2. The above are minimum standards, and additional parking spaces shall be required if these prove to be inadequate.
3. Where floor space is to be used in calculating the number of required parking stalls, gross floor space shall be used unless otherwise noted.

**6.10 Refuse disposal:**

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The Planning Board shall consider the impact of particular industrial or chemical wastes or by-products upon the town’s facilities (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere, in conformance with all applicable State and Federal regulations. The Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

### **6.11 Road Construction:**

- A. Roads shall be located, constructed, and maintained in such a manner that minimal erosion hazard results. Adequate provision shall be made to prevent soil erosion and sedimentation of surface waters.
- B. Additionally, all roads constructed shall conform with the following standards
  - 1. Road crossings of water courses shall be kept to the minimum number necessary
  - 2. Bottoms of culverts shall be installed at streambed elevation;
  - 3. All cut and fill banks, and areas of exposed mineral soil shall be revegetated or otherwise stabilized as soon as possible; and
  - 4. Bridges or culverts of adequate size and design shall be provided for all road crossings of water courses which are to be used when surface waters are unfrozen. The requirement for a bridge or culvert may be waived by obtaining a permit from the Planning Board.

### **6.12 Sanitary Provisions:**

- A. The approval of building permit applications shall be subject to presentation of a completed site evaluation form (HHH-200) which evidences adequate soil conditions for sewage disposal.
- B. When two or more lots or buildings in different ownership share a common subsurface disposal system, the system shall be owned and maintained in common by an owners association. Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

### **6.13 Signs:**

- A. Residential signs are permitted and may be used to convey the inhabitants' names, the property name, and safety and caution messages. Such signs shall not be placed on the roof of the building and shall be no larger than two square feet.
- B. Rental vacancies may be advertised with a non-illuminated sign no larger than two square feet. Such sign shall be erected only during such times as the rental property is vacant.
- C. The sale of real estate may be advertised by non-illuminated temporary signs, no larger than six square feet in area. Each broker or person advertising the sale shall be permitted only one sign on any premises. All such signs shall be removed upon the signing of the contract for the premises.

- D. Educational and religious uses may display one non-illuminated sign for each building. No such sign shall be larger than twenty square feet in area.
- E. On each premises there is permitted one sign affixed to the exterior of a building for each occupancy therein.
- F. No sign shall have a signboard area (or display area, if no signboard) exceeding twenty square feet. The gross area is the measure of the area within a line connecting and completely enclosing the extreme most points of the sign.
- G. Commercial signs:
  - 1. Signs shall relate to the premises on which they are located and shall only identify the occupant of such premises or advertise the service available within said premises. There shall be no temporary promotion signs, banners, streamers or placards erected, suspended posted or affixed in any manner outdoors or on the building exterior of premises except as provided in this Ordinance. Product advertising is prohibited except where the product is generic to the business.
  - 2. Free-standing signs are limited in number to one per building, except that, where one occupant occupies more than one building per lot or a combination of lots mutually adjoining and in common ownership, only one free-standing sign shall be permitted. The top edge of any such free-standing sign shall not be higher than sixteen feet vertical measure above the grade of the street nearest the sign support(s). For traffic safety, where vision may be obscured entering a public street, the whole of the sign board or display elements of any free-standing sign shall be either below three feet in height or above ten feet in height above the street grade. A free-standing sign may be located in the front yard space, but shall not be close than ten feet to the street right-of-way, and be no closer than twelve feet to either of the side lot lines. Where an existing principal building is within fifteen feet of the street right-of-way, a free-standing sign may be located within ten feet of the street right-of-way.
- H. Illumination of Signs:
  - a. No sign shall be illuminated with flashing, moving, or animated-type lights.
  - b. Illuminated signs shall be illuminated with white lights.
  - c. All internally illuminated signs shall have a dark background with light lettering or figures, to reduce glare.
- I. The above regulations shall not apply to the following:
  - a. Flags and insignia of any government

- b. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
  - c. Integral decorative or architectural features of buildings except letters, trademarks, moving parts, or moving or flashing lights.
  - d. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- J. Temporary signs for special events may be posted in any district upon written permit from the code enforcement officer. The code enforcement officer shall only grant such a permit after presentation of evidence that the authorities controlling the proposed location of the sign have approved its posting. A temporary sign shall be posted for a period not to exceed twenty days. The applicant shall remove said signs upon termination of the permit.

**6.14 Storm Water Runoff:**

- 1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
- 2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

**6.15 Erosion and Sedimentation Control:**

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following "best management" practices:

- 1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable provisions for:
  - a. Mulching and revegetation of disturbed soil.
  - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches
  - c. Permanent stabilization structures such as retaining walls or rip-rap
- 2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
4. Any exposed ground area shall be temporarily or permanently stabilized within (1) week from the time it was last actively worked, by use of riprap, sod, seed, mulch, or other effective measures. In all cases permanent stabilization shall occur within (9) months of the initial date of exposure. In addition:
  - a. Where mulch is used, it shall be applied at a rate of at least (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
  - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - c. Additional measures shall be taken where necessary in order to avoid filtration into the water. Such measures may include the use of staked hay bales and/or silt fences.
5. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (sand pits, etc.) shall not be permitted within 100' of any property line.
6. During grading operations, methods of dust control shall be employed.

#### **6.16 Setbacks and Screening:**

Exposed storage areas, exposed machinery installation, sand and gravel extraction operations, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse, shall have sufficient setback and screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses and surrounding properties. (Such as a dense evergreen hedge, 6 feet or more in height). Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.

#### **6.17 Water Quality:**

All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes and biodegradable raw materials, products and any other materials (except manure, unsalted sand and gravel, and logs and sawn lumber), as well as waste collection and disposal facilities, shall be located on impervious pavement, and shall be completely enclosed by an approved safety fence at least 6 feet in height. Such fence shall be set on top of an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 25 year storm, so that such liquid shall not

be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for “home heating oil” and diesel fuel, not exceeding 275 gallons in size, may be exempted from this requirement, in situations where neither a high seasonal water table( within 15” of the surface) nor rapidly permeable sandy soils are involved.”

**6.18 Traffic:**

Proposed developments shall provide for safe access and egress to roads. Safe access shall be assured by providing an adequate number and location of access/egress points with respect to sight distances, intersections, and other traffic generators. The proposed development shall not have an unreasonable impact on local roads by degrading the levels of service and shall assure safe interior circulation patterns. Access/egress points shall be designed in accordance with the following safe sight distances:

<u>Speed Limit</u>	<u>Recommended</u>	<u>Minimum</u>
25 mph	250'	175'
30 mph	300'	210'
35 mph	350'	245'
40 mph	400'	280'
45 mph	450'	315'
50 mph	500'	350'
55 mph	550'	385'

**6.19 Flood Protection, (revised 6/13/81):**

In order to minimize flood damage to persons and property, no fill or structure shall be placed in areas subject to periodic flooding, including areas of special flood hazard which are defined as those areas having a one percent or greater chance of flooding in any given year. These areas are identified in a report entitled "Flood Insurance Study - Town of Dayton in the County of York Maine" with accompanying "Flood Insurance Rate Map" and "Flood Boundary and Floodway Map", dated June 1, 1981, which is hereby adopted by reference and declared to be part of this Ordinance.

Enlargement of existing residential structures already situated in special flood hazard areas shall be so constructed that the lowest flood, including the basement, is elevated to or above the base flood elevation. Base flood elevation is the flood elevation having a one percent chance of being equaled or exceeded in any given year.

Construction material and utility equipment shall be resistant to flood damage. Enlargement of non-residential structures shall be so constructed that the lowest floor is elevated to or above the base flood elevation, or shall be flood proofed in accordance with designs certified by a Registered Professional Engineer to be water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

All enlargements of existing structures shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any water course.

#### **6.20 Soil Suitability for Construction:**

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

#### **6.21 Subsurface Sewage Disposal:**

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

#### **6.22 Other On-Site Sewage Disposal Systems:**

Other systems of sanitary waste disposal may be permitted in all Districts as a Conditional Use only after approval by the Planning Board and the Department of Human Services:

1. Alternative systems shall be presented to the Planning Board on a plan prepared by a Professional Engineer registered in the State of Maine and shall be subject to review and approval of the Maine Department of Environmental Protection and/or the Maine Department of Human Services.
2. Proposed discharge of sanitary wastes to any water body shall be subject to the issuance of State of Maine Department of Environmental Protection licensed; further, no such off-site discharge shall be allowed unless same is buried or not visible to a point below normal low water, and is secured against damage and uncovering by the tides, erosion or other foreseeable action.

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

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

### **7.1 Amusement Centers:**

- A. In addition to the automobile parking spaces required in Section 6.9, all amusement centers shall provide facilities for the parking of bicycles. Bicycle racks shall be located off the sidewalk or other pedestrian way, and away from automobile traffic lanes. A minimum of one bicycle space for every two amusement devices shall be provided.
- B. Restroom facilities for the patrons shall be provided on the premises.

## **7.2 Bed and Breakfast:**

- A. The application for approval as a conditional use shall include a scale drawing of the lot showing the location of: existing buildings, existing and proposed parking, and existing and proposed sewage disposal systems.
- B. There shall be no less than one parking space for each rental room in addition to the spaces required for the dwelling unit.
- C. There shall be one bathroom provided for every five rental rooms, in addition to the toilet facilities for the dwelling unit.
- D. Each rental room shall be not less than ten by twelve feet horizontal dimensions.
- E. There shall be a smoke detector installed in each rental room.

## **7.3 Campgrounds and Tenting Grounds:**

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following (in case of possible conflict, the stricter shall apply)

### **A. General:**

- 1. A campground must be constructed on at least 10 acres of land, and all camping units or structures shall be located at least 200 feet from any residence (except residences belonging to the campground owners). Within the shoreland zone, campgrounds shall contain a minimum of 5,000 square feet of land, including roads and driveways, for each site.
- 2. Campsites shall be laid out and screened in such a manner that none are within view from public roads, navigable rivers, existing residences or approved subdivision lots. Any combination of evergreen planting, landscaped earthen berms, or solid fencing may be used to achieve this screening standard, when campsites would otherwise be visible from the locations described above.
- 3. No house trailers other than recreational vehicles as defined herein, shall be permitted within any campground, temporarily or otherwise. No camping unit shall be stored or exhibited for sale for commercial purposes within the park.
- 4. Tent sites and sites for recreational vehicles (RV's) shall be laid out so that the density of each developed acre of land does not exceed the standards below (in terms of sites per acre of land, excluding circulation roads):

Tent sites	14 per acre
RV sites	11 per acre

- 5 Minimum frontage along any shoreline shall be 100 feet. Minimum setback from the shoreline shall be 100 feet for all recreational vehicles, tents, or other vehicles and temporary or permanent structures.

B. Parking and Circulation:

1. A minimum of three hundred square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site. Recreational vehicles shall be parked in spaces so that:
  - a. There shall be a minimum of 25 feet between vehicles; and
  - b. There shall be a minimum of 45 feet between all recreational vehicles and tents, and all public rights-of-way located inside the boundaries of the campground.
2. Vehicular access shall be provided onto a hard-surfaced road adequate for the volume and type of traffic likely to be generated. Grades and sight distances specified in the town's subdivision regulations shall be observed in designing all intersections. Roads shall be constructed of at least 12" of bank – run gravel (no stone larger than 4"), 2" of crushed gravel (3/4 inch chips) and adequate dust control methods shall be employed. The minimum width of roadway shall be twelve feet for one way roads and twenty two feet for two way traffic. No vehicle parking shall be permitted on the roadway.

C. Health and Safety:

1. Each recreational vehicle, tent, or shelter site shall be provided with picnic table and trash receptacle. The park management shall dispose of refuse from said containers by transporting the refuse in a closed truck or in enclosed containers or bags to an approved disposal area at least once a day.
2. A campground shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Wastewater Disposal Rules. In no case shall less than one toilet and lavatory be provided for each sex for every ten camping and tent sites. All recreational vehicle sites shall be equipped with water hook-ups.
3. Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations. 24 hour emergency communication service (e.g. telephones) shall be provided.

4. Each campsite shall be provided with a masonry or metal fireplace, approved writing by the Fire Chief.

D. Planning and Review.

1. Roads, parking, campsites and required facilities shall be planned in accordance with the basic principles outlined below, and shall be shown on the proposed plan which is submitted for review and approval as a Conditional Use:
  - a. A logical sequence of entry and circulation should be created: entrance, administration and storage, parking, campsites, toilets and laundry, playing fields or shoreline.
  - b. Campsites should be clustered in groups according to intensity of use (low density, medium density, etc.) and also related to common support service areas (laundries, play areas, etc.) serving a number of campsite clusters. The purpose is to minimize road length, increase accessibility, and to preserve open space.
  - c. Footpaths and roads should follow “desire lines” of pedestrian and vehicular movement between campsites and all jointly used facilities.
  - d. Access roads shall be laid out as loops to the greatest extent that is practicable, although “cul-de-sacs” or “dead –ends” may be allowed to serve up to twenty campsites.
2. A soil erosion and sedimentation control plan meeting the standards of the York County Soil and Water Conservation District shall be submitted. In addition to data on soils, slopes and drainage, a vegetation map showing the following items may be required;
  - a. The major types of vegetation should be identified and described (as to age, height, openness or density, and pattern, either natural or reforested)
  - b. New planting should be selected to provide screening and shelter, to tolerate existing and proposed site conditions, and to blend compatible with existing natural vegetation.
  - c. All vegetative clearing should avoid creating straight line edges between open lands and surviving stands.
  - d. Areas of activity and/or traffic should be sited to avoid wildlife areas (such as thickets for birds and small mammals, or deer yards and trails).

**7.4 Individual Private Campsites:**

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

- a. One campsite per lot existing on the effective date of this Ordinance, or 30,000 square feet of lot area within the Shoreland Overlay, Saco River Overlay District, and Resource Protection Districts, whichever is less, may be permitted.
- b. When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- c. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland.
- d. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- e. The clearing of vegetation for the citing of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet.
- f. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required
- g. When a recreational vehicle, tent or similar shelter is placed on-site for more than 20 days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules.

## **7.5 Agriculture:**

1. All storage or spreading of manure in the shoreland zone shall be accomplished in conformance with the Manure Utilization Guidelines published by the former Maine Department of Agriculture on November 1, 2001 and the Nutrient Management Law (7 M.R.S.A. Sections 4201-4209).
2. There shall be no new tilling of soil within (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance, from other water bodies; nor within 25 feet, horizontal distance, of tributary streams, and

freshwater wetlands. Operations in existence on the effective date of this paragraph and not in conformance with this provision may be maintained.

3. Agricultural practices, including the creation of fire ponds, shall be conducted to minimize soil erosion, sedimentation, contamination, and nutrient enrichment of ground and surface waters. There shall be no direct discharge of field or pasture run-off into any navigable waterway or great pond. Control measures should be designed, when ever possible, in accordance with conservation plans designed by the Soil Conservation Service or the "Environmental Quality Handbook". Measures should include, where appropriate:
  - a. Cross slope tillage and row-cropping of the area within 250 feet of normal high water elevation of the surface water areas protected by the Saco River Corridor Commission.
  - b. Diversions above cropland fields to reduce run-off water entering such field,
  - c. Terracing and/or strip-cropping on moderate or steep slopes (over 8%).
  - d. Crop rotation and cover crops to prevent soil erosion.
  - e. Careful application of fertilizers and pesticides in accordance with application rates recommended by the Extension Service.
  
4. The following additional provisions shall apply within the Shoreland Overlay and Resource Protection Districts only:
  - a. Manure shall not be stored or stockpiled within (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. Manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
  - b. Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, or the spreading, disposal or storage of manure shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
  - c. Newly established livestock grazing areas shall not be permitted within (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within 75 feet, horizontal distance of other water bodies, nor; within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the Planning Board.

## **7.6 Commercial Recreational Facility:**

Commercial recreation activities may be established as a conditional use in those districts indicated on the Land Use Table and in accordance with the provisions below:

- A. There will be provided adequate off—street parking for the anticipated maximum attendance at any event.
- B. Containers and facilities for rubbish collection and removal will be provided.
- C. Adequate screening, buffer area, or landscape provisions will be built, planted, or maintained, to protect adjacent residences from adverse noise, light, dust, smoke, and visual impact.
- D. The proposed use will not create a traffic hazard.

## **7.7 Earth Material Removal:**

### **A. New Operations;**

1. Filling, grading, lagooning, dredging, excavation, processing and storage of soil, earth, loam, sand, gravel, rock and ledge, peat, or any other mineral or organic deposits, which would result in erosion, sedimentation, or impairment of water quality or fish and aquatic life, is prohibited except with a Conditional Use Permit issued by the Planning Board under a Conditional Use Permit as herein after provided
2. Nothing herein shall be deemed to apply to normal excavation operations incidental to construction activities for which a valid permit is held. The Planning Board may waive any or all of the following requirements when less than 25 cubic yards of earth material within any time period is proposed to be removed, screened or stored. Normal agricultural operations, including creation of fire ponds, shall not be considered as "earth material removal".
3. Applications to the Planning Board for a Conditional Use Permit for the excavation, screening or storage of soil (including topsoil), peat, loam sand, gravel, rock or other mineral deposits shall be accompanied by a plan prepared according to Planning Board specifications and in compliance with applicable State Laws, and accompanied by all required State Permits or licenses.
4. A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 7. 6 .4 below.
  - a. The applicant shall submit to the Code Enforcement Officer plans of the proposed extraction site showing the property lines and names of abutting owners and ways, indicating by not greater than five (5) foot contour intervals related to U.S. Geodetic Survey data, the location and slope of the grades existing and as

proposed upon completion of the extraction operation, and detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits, together with a written statement of the proposed method, regularity, working hours, and total proposed rehabilitation and restoration on the site upon completion of the operation.

- b. The Board may require the additional submission of a hydro geologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.
  - c. Said plans and statement shall be submitted with recommendations of the Code Enforcement Officer to the Planning Board for its consideration with respect to the effect of the proposed operations upon existing and foreseeable traffic patterns within the town, upon existing or approved land uses which may be affected by the operation, and implementation of comprehensive plan policies. The Planning Board may recommend changes to the applicant for resubmission to the Planning Board.
  - d. The Planning Board shall render a written decision specifying whether, and under what conditions, the proposed operation would be permitted. The Planning Board may require filing with the Town Clerk a commercial surety bond, a certified check, or a savings account passbook payable to the Town in such amount and upon such conditions as the Planning Board may determine to be adequate to indemnify the Town against any claims arising from the proposed operation and to assure satisfactory performance of all conditions imposed or otherwise applicable.
5. The Planning Board shall specify such requirements in any Conditional Use Permit issued for earth material removal as it deems necessary or desirable to assure compliance with the following requirements:
- a. No part of any extraction operation shall be permitted within 100 feet of any property or street line in the Forest, Fields, or C.R zones or within 200 feet of any property or street line in the Mixed Use Zone and within 300 feet of any property or street line in the Village Districts except that drainage ways to reduce run-off into or from the extraction area may be allowed up to 100 feet of such line and except that the above stated setbacks may be reduced and/or eliminated upon written approval of the butting owner. No part of any extraction operation, including drainage and runoff control features shall be permitted within 75 feet horizontal distance of the normal high-water line of any water body, tributary stream, or the upland edge of a wetland. Natural vegetation shall be left and maintained on the undisturbed land.
  - b. If any standing water accumulates, the site must be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of insects.

- c. At any extraction operation site when deemed necessary by the Planning Board, the applicant shall erect or construct fencing at least four (4) feet in height to insure the safety of residents. Fencing must be complete before extraction begins.
- d. Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operations. Bonding may be required by the Planning Board to insure compliance with set standards.
- e. Any topsoil and subsoil suitable for the purposes of revegetation shall to the extent required for restoration be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this section.
- f. Sediment shall be trapped by diversions, silting basins, terraces, and other measures designed by a Professional Engineer or by the U.S. Soil Conservation Service.
- g. The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.
- h. Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources and Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.
- i. The hours of operation at any extraction site shall be limited as the Planning Board deems advisable to ensure the operational compatibility with residents of the Town.
- j. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Road Commissioner. No mud, soil, sand or other material shall be allowed to accumulate on a public road from loading or hauling vehicles.
- k. All access/egress roads leading to/from the extraction site to public ways shall be treated with stone, calcium, or other suitable materials to reduce dust and mud for a distance of at least 100 feet from such public ways.

- l. No equipment, debris, junk or other material shall be permitted on an excavation site except those directly related to active extraction operations, and any temporary shelters, or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.
  
- m. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, or any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the Planning Board so that:
  1. All debris, stumps, boulders, and similar materials shall be removed and disposed of in an approved location or, in the case of inorganic material, buried and covered with a minimum of two (2) feet of soil. Only materials generated on-site may be buried or covered on-site.
  2. The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type of fill to be used.
  3. Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
  4. At least four (4) inches of topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be reseeded with perennial grass and properly restored to a stable condition.
  5. No slopes steeper than two and one-half foot horizontal to one (1) foot vertical (2 ½:1) shall be permitted at any extraction site.
  
- n. All existing gravel pits, entrances and exits, shall be closed to unauthorized access.

#### B. Existing Operations.

1. Any operation involving the excavation, processing, or storage of soil, earth, loam, sand, gravel, rock or other mineral deposits in lawful operation at the time this Section becomes effective, and which meet the criteria for requiring a Conditional Use Permit, may operate for a period of five years from the effective date without Planning Board approval. Existing operations, however, must submit to the Planning Board within ninety (90) days of the effective date of this Section, a map indicating the area within which earth removal activity is anticipated within the five year period, and the area which has already been subject to earth removal activity. Failure to submit the above map within ninety days shall result in the loss of grandfathered

status for that operation. Within fifteen (15) days of the effective date of this Section, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of his knowledge, contain existing operations, informing them of the requirements of this section.

2. Discontinuation of any existing operation for a period of more than one year shall result in the loss of grandfathered status for that operation. Discontinuation is defined as being the excavation, processing or storage of less than twenty-five cubic yards of material.

## **7.8 Home Occupations:**

A home occupation shall be permitted if it complies with all of the requirements of this section:

- A. Home occupations shall be carried on wholly within the principal building
- B. Not more than two persons outside the family shall be employed in the home occupations.
- C. A home occupation may not alter the residential character of the structure, neighborhood or change the character of the lot from its principal use as a residence.
- D. Exterior display shall be limited to a total of two (2) samples or models of products sold or manufactured on premises. Exterior storage of materials and any other exterior evidence of the home occupation shall be so located or screened so as not to detract from the residential character of the principal building. Signs shall be permitted only as provided for under Section 6.13 of this Ordinance.
- E. A home occupation shall not create greater traffic than normal for the area it is located in or generate more than 20 vehicle trips /day.
- F. The sale of products shall be limited to those which are crafted, assembled, or substantially altered on the premises, to catalog items off the premises by customers and to items which are accessory and incidental to a service which is provided on the premises

## **7.9 Ground Water and or Spring Water Extraction and/or Storage:**

- A. Permit Required:

Ground water or spring water may be extracted and/or bulk stored as part of a commercial or industrial that withdraws 3,000 gallons per day or more, or a land excavation operation where allowed under this ordinance as a Conditional Use. The

Planning Board shall grant approval if it finds that the proposal, with any reasonable conditions, will conform to the requirements of this section.

B. Submission Requirements. The application together with site plan shall include the following information:

1. Statement of the quantity of ground water to be extracted, expressed as the annual total, the maximum monthly rate by month, and the maximum daily rate;
2. A letter from the Maine Department of Human Services approving the facility as proposed where the Department has jurisdiction over the proposal;
3. Where appropriate, letters from the Department of Environmental Protection when the Site Location Law is applicable or a discharge permit is required.
4. Applicants shall present a written report of a hydro geologic investigation conducted by a certified professional geologist or registered professional engineer, except for spring water extraction facilities which meet the following conditions: the spring enhancement will not increase the combined spring catchment's capacity by removing more than four (4) cubic yards of earth and not increase this spring's depth by more than four (4) feet, where the discharge drain is no lower than the existing spring water level, where gravity alone (without the aid of a siphon) is used to withdraw the spring water to other facilities on site, and where other improvements do not threaten ground water levels. This report shall include the following information:
  - a. A map of the aquifer tributary to the spring(s), well(s) or excavation(s) from which water is to be extracted in sufficient detail to support a calculation of sustained yield during a drought with a probability of one in ten years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.
  - b. The results of the investigation shall establish the aquifer characteristics, the rates of draw—down and rebound, the sustainable yearly, monthly (by month) and daily extraction rates, the cone of depression which may develop about the proposed facility, and other impacts on the water table in the tributary aquifer and such other private or public wells within 1,000 feet of the proposed extraction facilities shall be assessed.
  - c. Nothing in this procedure and no decision by the Planning Board shall be deemed to create groundwater rights other than those rights which the applicant may have under Maine law.

C. Performance Standards:

1. The quantity of water to be taken from ground water sources will not substantially lower the ground water table, cause salt water intrusion, cause undesirable changes in ground water flow patterns, or cause unacceptable ground subsidence, based on the conditions of a drought with a probability of occurrence of once in ten years.
2. The proposed facility will not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.
3. Safe and healthful conditions will be maintained at all times within and about the proposed use.
4. The proposed use will not cause sedimentation or erosion.
5. The proposed facility is not within the defined aquifer recharge area of a public water supply; unless notice is given to the operator thereof and the Board has considered any information supplied by the operator and finds that no adverse affect on a public water supply will result.
6. The operator shall make monthly operating records of the quantity of water extracted, stored and removed from the site available to the Code Enforcement Officer or a designee

D. Existing Operations:

1. Any operation involving the extraction of ground water or spring water in lawful operation at the time this Section becomes effective, and which meet the criteria for requiring a Conditional Use Permit, may operate for a period of five years from the effective date without Planning Board approval. Existing operations, however, must submit to the Planning Board within ninety (90) days of the effective date of this Section, a map indicating the property from which ground water is being extracted, showing the location of the extraction in relation to neighboring well, surface water bodies, and property lines. Failure to submit the above map within ninety days shall result in the loss of grandfathered status for that operation.

Within fifteen (15) days of the effective date of this Section, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of their knowledge, contain existing operations, informing them of the requirements of this section.

2. Discontinuance of any existing operation for a period of more than one year shall result in the loss of grandfathered status for that operation.

**7.10 Hotels, Motels and Inns:**

For traffic safety on and immediately adjoining each motel or hotel and to assure health, safety and welfare of hotel occupants and of the neighborhood generally, the following land, space, building, traffic, utility, and service design requirements shall be complied with:

- A. The minimum lot size for any motel, hotel or inn shall contain not less than three acres of total area. Access driveways into the development shall be at an angle of 90°. Driveways shall be separated by a minimum of 100 feet. The curb radius of the intersection of the driveway to public way shall be no less than 25 feet. Access and egress drives shall not exceed a slope of 2 for the first seventy five (75) feet onto the property.
- B. No part of any building on a motel lot shall be closer than seventy five feet to the front lot line, rear lot line or either side line of such lot. A green space, not less than twenty feet wide, shall be maintained open and green with grass, bushes, flowers or trees all along each side lot line, the rear lot line, the front line of such lot, except for entrance and exit driveways. The green space shall not be used for automobile parking.
- C. Buildings on a motel lot shall not cover more than fifteen percent of the area of the lot.
- D. If cooking or eating facilities are provided in motel/hotel rental units, each rental unit shall be considered a dwelling unit and the motel/hotel shall be required to meet all the standards for multifamily developments, including the residential density requirements of the appropriate district, in this ordinance.
- E. Each motel rental unit shall contain not less than two hundred square feet habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each motel rental sleeping room shall not be less than twelve by fifteen feet horizontal dimensions, exclusive of bath. Each rental unit shall include private bathroom facilities.
- F. On each motel/hotel lot, one apartment may be provided for a resident owner, manager, or other responsible staff person.
- G. Hotel building construction plans shall be reviewed and approved by the State Fire Marshall Office.
- H. Parking stalls shall be designed to accommodate the traveling public by a minimum stall width of eleven (11) feet and stall depth of twenty (20) feet for perpendicular stalls. Angled parking stall width and depths shall be increased by 10% and 25% above the standards contained in this ordinance.
- I. Water Supply. The applicant shall demonstrate the availability of adequate supply and quality of water for both domestic and firefighting purposes. The Planning Board may require the construction of fire ponds and dry hydrants.

- J. Sewage Disposal. The location of subsurface wastewater disposal systems and an equivalent reserve area for replacement systems shall be shown on the plan. The reserve areas shall be restricted so as not to be built upon. The report of a licensed Site Evaluator shall accompany the plan. If the system is an engineered system, the approval of the Division of Health Engineering shall be obtained prior to submittal of the application to the Planning Board.

**7.11 Kennels and Veterinary Hospitals:**

- A. Structures or pens for housing or containing the animals shall be located not less than one hundred (100) feet from the nearest residence other than the owners' existing at the time of permit.
- B. All pens, runs, or kennels, and other facilities shall be designed, constructed, and located on the site in a manner that will minimize the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted horticultural screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.
- C. The owner or operator of a kennel shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.
- D. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied no less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.
- E. If outdoor dogs "runs" are created, they shall be completely fenced in, and shall be paved with cement, asphalt or a similar material to provide for cleanliness and ease of maintenance.
- F. Any incineration device for burning excrement—soaked waste papers and/or animal organs or remains shall be located a minimum distance of 400 feet from nearest residence other than the applicants, and shall have a chimney vent not less than 20 feet above the average ground elevation. The applicant shall also provide evidence that he has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator, and that it meets state standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.

- G. All other relevant performance standards in Article 6 of this ordinance shall also be observed.

**7.12 Manufactured Housing:**

- A. All Mobile Homes to be located on a lot within the Town of Dayton after the effective date of this Ordinance shall be manufactured after June 15, 1976.
- B. All manufactured housing units not located in a mobile home park shall have a minimum horizontal dimension of 14 feet.

**7.13 Mobile Home Parks:**

1. Licenses.

No person, firm or corporation shall establish or maintain a mobile home park seasonal trailer park or campground within the Town of Dayton without a license issued in conformity with the provisions of this Code. A mobile home park, seasonal trailer park, or campground existing prior to the adoption of this Code may be enlarged only if the extension complies with the terms as specified herein:

- a. Application for a mobile home park, license shall be filed with the Code Enforcement Officer who shall, in turn, present said application to the Planning Board for review as a subdivision except that applications for license renewals are not subject to Planning Board review. The Planning Board shall review plans of the proposal and approve, approve with conditions, or deny approval of the proposal on the basis of standards contained herein and as contained in the Subdivision Regulations of the Town Planning Board. The Planning Board shall inform the Code Enforcement Officer of its decision in writing and he shall act on the application.
- b. Each application for a license or a renewal thereof shall be accompanied by a fee of \$25 for a mobile home park. Each such license shall expire on the first day of April next following the date of issuance. Before any license shall be renewed, the premises shall be subject to inspection by the Health Officer and Code Enforcement Officer. If they shall find all requirements of this and other Town and State Ordinances and Laws have been complied with, they shall certify same.
- c. Such licenses shall be conspicuously posted on the premises at all times and shall not be transferable.
- d. The Planning Board is hereby authorized to revoke any license issued pursuant to the terms of this Code if, after due investigation, they determine

the holder thereof has violated any of the provisions of this or any applicable code, law or statute.

## 2. Mobile Home Parks:

Mobile home parks shall be constructed and installed in accordance with the following minimum standards and in accordance with every Section of this Code. Mobile home parks shall provide areas for the location and development of mobile homes, as defined in this Code.

- a. Streets. Design and construction of all mobile home park streets shall be in accordance with the specifications established in the Town Street Acceptance Code and the Planning Board Standards for Reviewing Subdivisions.
- b. Utilities. Design and construction of all utilities shall be in accordance with the specifications established in this Code. In addition, sewerage systems may be designed to collect sewage from each mobile home and dispose of it in a common septic tank disposal facility provided that the design, construction and operation of said facility are in compliance with the specifications of this Ordinance dealing with Planning Unit Developments. Water Systems shall be capable of delivering 250 gallons per day per lot.
- c. Minimum Lot Size, Frontage and Setbacks. The provisions of this Ordinance relating to Planned Unit Development shall apply (Article V, Section 5.2.E).
- d. Permanent additions shall be permitted provided they conform to all provisions of the Dayton Building Code.
- e. Buffer Strips. There shall be a minimum distance of 150 feet between mobile home lot lines and the boundaries of mobile home parks. Where no natural vegetative buffering at least fifty (50) feet wide and eight feet high exists or can be maintained in these buffer strips, such developments shall be screened from view along all boundaries visible from town roads or existing houses by a continuous landscaped area not less than 25 feet wide containing trees, shrubs, fences, walls, berms, or any combination thereof forming a visual barrier not less than 8 feet high.
- f. Refuse Disposal. Each mobile home lot shall be provided with an area for refuse storage. Within a maximum of 250 feet from each mobile home lot, there shall be a fly-tight, watertight and rodent-proof container capable of storing the amount of refuse that the mobile home for which it was designed could generate in one week. The park management shall dispose of refuse from said containers by transporting the refuse to an approved disposal area at least once a week.

- g. Fire Protection. Fire extinguishers capable of dealing with both electrical and wood fires shall be kept in all service buildings; a mobile home park shall provide suitable ingress and egress so that every mobile home may be readily serviced in emergency situations.
- h. Responsibilities of mobile home park management. The management of mobile home parks shall be responsible for operating their respective parks in accordance with all Town codes and ordinances and all State laws and regulations. The maintenance of all open space areas, roads, and utilities in a park shall be the responsibility of the park management.
- i. Responsibilities of Mobile Home Park Occupants. Mobile home park occupants shall be responsible for maintaining their mobile home lots in an orderly condition and for preventing the accumulation of refuse on such lots or under the mobile homes.
- j. Mobile home parks shall not be used as a sales lot or showroom for commercial sales of mobile homes. However, private resale of second-hand mobile homes which have been used for residential purposes within the park shall be permitted.

**7.14 Multi—Family Developments & Condominiums:**

- A. Multi-family developments may be approved by the Planning Board in accordance with the Land Use Table of this ordinance. All proposals to construct multi-family developments shall be in conformance with the General Performance Standards of Article VII and the design requirements listed below.
- B. Applications for approval shall include: a map of the area; dimensions, boundaries and principal elevations of the land for which approval is sought; the names of all property owners within 100 feet of the proposed site, as found on the most recent tax list; building layout and general construction plans; a site plan of all driveways and parking areas proposed to be constructed; and, other information which addresses all appropriate performance standards and design requirements and all appropriate factors to be considered in evaluating proposals.
- C. Design Requirements.
  - 1. Density:
 

The land area required for a multifamily development shall be based on the following formula:

    - a. For dwelling units with two bedrooms or less: The minimum lot size for the district in which the development is located is required for the first dwelling

unit. Each additional dwelling unit shall require 1/2 of the minimum lot size for the district in which the development is located.

- b. For dwelling units with three bedrooms or more: The minimum lot size for the district in which the development is located shall be required for each dwelling unit. All density calculations shall be based on net residential acreage which shall be calculated on the same basis as required for cluster developments, in Sections 7.17

2. Water Supply:

The applicant shall demonstrate the availability of adequate supply and quality of water for both domestic and firefighting purposes. The Planning Board may require the construction of fire ponds and dry hydrants.

3. Sewage Disposal:

The location of subsurface wastewater disposal systems and an equivalent reserve area for replacement systems shall be shown on the plan. The reserve areas shall be restricted so as not to be built upon. The report of a licensed Site Evaluator shall accompany the plan. If the system is an engineered system, the approval of the Division of Health Engineering shall be obtained prior to submittal of the application to the Planning Board.

4. It shall be the responsibility of the owner to provide for rubbish disposal, snow removal, and site maintenance. All outdoor storage areas for waste collection shall be enclosed by a wooden or masonry screen at least six feet in height. A fifty foot landscaped buffer shall be provided along all property boundaries.
5. Storm water and surface drainage systems shall be designed in accordance with the Dayton subdivision regulations.
6. Access, Circulation, and Parking:
  - a. The proposed development shall provide for safe access to and from public or private roads. Safe access shall be assured by providing an adequate number and location of access points, with respect to sight—distances, intersections, schools, and other traffic—generators. All corner lots shall be kept clear from visual obstructions higher than three feet above ground level, for a distance of twenty— five feet, measured along the intersecting street lines.
  - b. The proposed development shall not have an unreasonable adverse impact on the public road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic and by providing adequate parking and turn—around areas.

- c. All developments containing fifteen or more dwelling units may be required by the Planning Board to have more than one street access (for emergency and safety purposes). No more than two accesses shall be allowed on any single street or roadway.
- 7. No building in a multifamily development constructed after March 11, 1978 shall contain more than eight dwelling units. Buildings constructed prior to March 11, 1978 may be converted to multifamily structures and may contain more than eight dwelling units, provided each such dwelling unit contains no less than 600 square feet of floor area.

**7.15 Restaurants:**

- A. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit
- B. A completed soil evaluation forms (HHE—200) shall be submitted. All proposed subsurface disposal systems shall meet the Maine State Subsurface Wastewater Disposal rules.
- C. All parking and loading facilities shall be located to the side or rear of the building, and shall be screened from abutting residences within 200 feet. Screening shall be comprised of a continuous landscaped area not less than eight feet in width, containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six feet in height.
- D. Restroom facilities for the patrons shall be provided on the premises.

**7.16 Schools, Colleges, Churches, Fraternal Organizations, and Not for Profit Clubs:**

Public and private colleges, schools, churches, fraternal organizations, and not for profit clubs shall be permitted as a conditional use in accordance with Section 9.7 and the provisions below.

- 1. A green strip, suitably landscaped, at least 20 feet wide shall be provided along all property lines, except where driveways enter and exit.
- 2. No building shall be closer than fifty feet from a property line
- 3. When adjacent to residences within 200 feet, parking areas and outdoor activity areas shall be effectively screened from view by a continuous vegetative barrier or stockade fence not less than six feet in height

## **7.17 Planned Unit Development, Cluster Development and Motels:**

### **1. Purpose:**

Notwithstanding other provisions of this Ordinance, the Planning Board in reviewing and approving proposed residential subdivisions may modify provisions relating to space and bulk to permit innovative approaches to housing and environment design in accordance with the standards of this Section. Such modifications of space and bulk provisions shall not be construed as granting variances to relieve hardship. The purpose of this Section shall be to encourage housing development that will result in:

- A: Preservation of open space to serve recreational and scenic purposes and to provide adequate recreation opportunities to residents.
- B. Improved living environments which offer a variety and choice in housing and permit more economical housing to be constructed
- C. A pattern of development in harmony with the natural features of the land
- D. Economical subdivision layout, efficient use of the land, with smaller networks of utilities and streets.

### **2. Basic Requirements.**

Planned unit developments, and cluster developments and shall meet all the following criteria:

- A. The provisions of this section apply to subdivisions for single family and two-family homes in the rural forest and rural field zones.
- B. The minimum area of land in a planned unit development, or cluster development shall be 10 acres.
- C. Each building shall be an element of an overall plan for site development, which plan shall identify the location of all proposed roads, structures, parking areas, footpaths, common open space and private yard space related to individual dwelling units. Only developments having a total site plan for structures will be considered. In respect to the placement of buildings and treatment of spaces, paths, roads, service and parking the developer shall take into consideration all requirements of this section and of other relevant sections of this Ordinance.

- D. The maximum net residential density (i.e., the number of dwellings per acre, excluding roads) allowable in planned unit developments shall be calculated on the basis described in the table below. For example, in developments where sewer service is not being provided, all of the "well-drained" and "moderately well-drained" land may be included in the density calculations, plus half of the "poorly-drained" land.

Land Which May be Included as "Suitable Land" When Calculating Net Residential Density

	Excessively drained well-drained and moderately well-drained	poorly drained*	very poorly drained*	slopes greater than 33%	borrow pits
On sewer	100%	75%	40%	50%	67%
Not on sewer	100%	50%	-	-	33%

\* Soil classification by U.S. Soil Conservation Service. All "poorly" and "very poorly" drained soils are unsuitable for on-site sewage disposal, under the State Plumbing Code.

- E. Overall net residential density of the development shall not exceed 2.5 acres per dwelling unit. A drawing and calculations showing the net residential acreage and density, and a drawing showing the maximum number of lots feasible under regular subdivision provisions shall be submitted. Lot size shall not be reduced to less than 1 acre. Each lot shall have a minimum frontage of 125 feet on a public road or a street proposed by the applicant.
- F. Front yard setbacks shall not be reduced by more than 50% of those specified in the district requirements. The Planning Board may reduce side and rear yard setbacks at its discretion, using the provision of adequate light, ventilation, fire safety, emergency access, and privacy as review criteria.
- G. The extent of soil types in the six categories listed in the table shall be certified by a Registered Soil Scientist licensed in the State of Maine, on a high-intensity soil survey map.
- H. No dwelling or motel unit shall be constructed on soil classified as being "very poorly" drained.
- I. Where a planned unit development or cluster development abuts a watercourse, or water-body, a portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.
- J. All dwelling units in a planned unit development or cluster development shall be connected to a common water supply and distribution system, either public or private, at no expense to the municipality.

- K. All structures with required plumbing in a planned unit development, cluster development or motel shall be connected to a public sanitary sewer system, if available, or to a central collection and treatment system in accordance with the sanitary provisions of this Ordinance.
- L. Cluster developments shall have no more than one driveway per 500 feet of road frontage on arterial streets. The Planning Board may require a second access for public safety purposes.
- M. The lot area within the Shoreland Overlay and Resource Protection Districts per dwelling unit in these districts shall not exceed that normally required. The lot shall contain the required shore frontage for each lot within the Shoreland Zone.

3. Dedication and Maintenance of Common Open Space:

- A. The total area of reserved common land within the development shall not be less than 50% of the entire parcel. The open space shall be shown on the recorded subdivision plan with appropriate notation that it shall not be used for future building lots and shall not be further subdivided.
- B. Common space shall not include areas devoted to public or private vehicular streets, driveways or parking spaces.
- C. Where a cluster development abuts a water body, a portion of the shoreline, as well as reasonable access to it, shall be part of the common open space.
- D. All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the building lots, by an association which has as its principal purpose the conservation of preservation of land in essentially its natural condition, or by the Municipality.
- E. The common open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that:
  - i. It shall not be used for future building lots; and that
  - ii. A part of all of the common open space may, at the option of the Town, be dedicated for acceptance by the Town for operation as a municipal recreation facility.
- F. If any or all of the common space is to be reserved for use by the residents, the by-laws of the proposed neighborhood association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to the Final Plan approval.

- G. Covenants for mandatory membership in the association setting forth the owner's rights and interest and privilege in the association or trust and the common land, shall be reviewed by the Planning Board and included in the deed for each lot or dwelling.
- H. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities and Village assessments.
- I. The developer or sub-divider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request of the neighborhood association or trust or the developer or subdivider.

**7.18 Accessory Dwelling Units (ADU):**

1. General

Accessory Dwelling Units meeting the following standards shall be considered to be part of a single family, owner occupied home. Accessory Dwelling Units shall be permitted only in those districts which allow single-family dwellings. Apartments not meeting these requirements shall be considered to be separate dwelling units and shall conform to the standards set forth in Article 5 of the Dayton Zoning Ordinance.

- 2 The Accessory Dwelling Unit shall be accessory to the use of the single-family dwelling and only one (1) ADU shall be created in a single family dwelling;
- 3. The total floor area of the ADU shall be minimum of (500) square feet or (30) percent of the gross floor area of the principal building, not to exceed (700) square feet whichever is greater;
- 4. The creation of the ADU shall not alter the single-family character of the property. The following standards shall be met in creating the unit:
  - a. The ADU shall not be clearly identifiable from the exterior as a result of the design of the structure;
  - b Provisions for parking, shall be provided on the property
  - c. Exterior stairs are restricted to the rear or sides of the structure wherever practicable.
- 5. The ADU must not be occupied by more than (2) people
- 6. One of the occupants of the ADU must be an immediate family member to the owner of the property. Immediate family as used in this Ordinance is defined as; spouse,

parent, grandparent, brother, sister, child, or grandchild related by blood, marriage, or adoption.

7. Only one accessory dwelling unit is permitted per lot. Any structure containing an accessory dwelling unit must meet minimum yard and setback requirements for principal structures.
8. When any property containing an accessory dwelling unit is sold or transferred, the new owner must continue to meet the requirements of this Section in order to continue the use of the ADU. Should the new owner not meet the requirements of this Section, the use of the unit must be discontinued to the satisfaction of the CEO.
9. To ensure continued compliance by current and subsequent owners, the applicant shall provide and record in the York County Registry of Deeds a covenant in a form acceptable to the Town attorney that the existence of the accessory dwelling unit is predicated upon the occupancy of either the accessory dwelling or the principal dwelling by a person who owns the property. It is also required that any owner of the property must notify a prospective buyer of the limitations of this section,

Violations of the terms of this covenant shall result in the loss of the ADU permit. Conformance to the condition of the ADU permit and covenant shall be certified yearly by the owner subject to inspection by the Code Enforcement Officer. Inspection shall be allowed by the owner after 48 hours notice from the Code Office.

#### **7.19: Watercourse Alteration or Relocation:**

The applicant for a permit shall notify adjacent communities and the Maine Office of Civil Emergency Preparedness prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA to assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

Additional Standards Applicable in the Shoreland Overlay District, Saco River Overlay District, and Resource Protection District.

#### **7.20: Parking Areas**

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in districts other than the General Development 1 District, shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

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

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

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

### **7.21: Roads and Driveways:**

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- a. Roads and driveways shall be set back at least 75 feet horizontal distance from the normal high-water line of water body, tributary stream, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the Planning Board may reduce the road and/or driveway setback requirement shall be no less than 50 feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland.

Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than 20% the road and/or driveway setback shall be increased by ten feet horizontal distance for each 5% increase in slope above 20% This paragraph does not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 5.2.(L)(a) except for that portion of the road or driveway necessary for direct access to the structure.

- b. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream, or wetland.
- c. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or

driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high water line of a water body, tributary stream, or upland edge of a wetland.

- d. Road and driveway banks shall be no steeper than a slope of two horizontal to one vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in section 5.I.G.
- e. Road and driveway grades shall be no greater than 10% except for segments of less than 200 feet.
- f. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least 50 feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- g. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
- h. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

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

- i. Drainage dips may be used in place of ditch relief culverts only where the road grade is 10% or less.

- j. On road sections having slopes greater than 10%, ditch relief culverts shall be placed at approximately a 30° angle down slope from a line perpendicular to the centerline of the road, or driveway.
- k. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials
- l. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

**7.22: Essential Services:**

- a. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- b. The installation of essential services other than road-side distribution lines. is not allowed in a Resource Protection District, except to provide services to a permitted use within the district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- c. Damaged or destroyed public utility transmission lines, towers and related equipment may be replaced or reconstructed without a permit.

**7.23: Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting:**

- 1 In a Resource Protection District the clearing of vegetation, except for the removal of Hazard Trees, shall be limited to that which is necessary for uses expressly authorized in that district,
- 2. Except in areas as described in, Section a. above, and except to allow for the development of permitted uses, within a strip of land extending 75 feet, horizontal distance, from any a water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
  - a. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six feet in width as measured between tree trunks is permitted to access the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

- b. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" shall be defined as maintaining a rating score of 16 or more in any 25-foot by 50-foot rectangular square area as determined by the following rating system.

Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 to 4 in.	1
more than 4 less than 8 in.	2
more than 8 less than 12 in.	4
Over 12 inches the following shall govern in applying this point system:	

- i The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer.
- ii Each successive plot must be adjacent to, but not overlap a previous plot:
- iii Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance:
- iv Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance:
- v Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 7.21.2 (b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangular area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten year period.

- c. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- d. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead, or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q. below unless existing new tree growth is present.

- e. In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities including associated construction and related equipment operation within or outside the shoreline buffer must comply with the requirements in Section 7.21.2
3. At distances greater than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten year period, selective cutting of not more than 40% percent of the volume of trees four inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40% percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or 10,000 square feet, whichever is greater, including land previously cleared.

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 7.21

5. In order to protect water quality and wildlife habitat, in the shoreland zone, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in section 7.21 of the Zoning Ordinance.

#### **7.24: Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal:**

1. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - a. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
  - b. Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured

at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

- c. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
  - d. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
  - e. The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
2. Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- a. Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
    - i. The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
    - ii. Stumps from the storm-damaged trees may not be removed;
    - iii. Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
    - iv. If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

- b. Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

**7.25: Exemptions to Clearing and Vegetation Removal Requirements:**

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

1. The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
2. The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
3. The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
4. The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
5. The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
  - a. A coastal wetland; or
  - b. A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
6. The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

- a. If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - b. Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - c. If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
7. The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

**7.26: Revegetation Requirements:**

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

1. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
2. Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
3. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

4. Revegetation activities must meet the following requirements for trees and saplings:
  - a. All trees and saplings removed must be replaced with native noninvasive species;
  - b. Replacement vegetation must at a minimum consist of saplings;
  - c. If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - d. No one species shall make up 50% or more of the number of trees and saplings planted;
  - e. If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - f. A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
  
5. Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
  - a. All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  - b. Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - c. If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - d. No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - e. Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
  
6. Revegetation activities must meet the following requirements for ground vegetation and ground cover:
  - a. All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

- b. Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
- c. Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

**7.27: Archaeological Sites:**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

## **ARTICLE 8 - ADMINISTRATION, ENFORCEMENT, AND PENALTIES**

### **8.1 Administering Bodies and Agents**

### **8.2 Basic Requirements**

### **8.3 Permit Application**

### **8.4 Building Permit Fee**

### **8.5 Plumbing Permit Required**

### **8.6 Certificate of Occupancy Required**

### **8.7 Code Enforcement Officer**

### **8.8 Violations, Legal Action, and Fines**

### **8.9 Conditional Use Permits**

#### **8.1 Administering Bodies and Agents:**

1. Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1<sup>st</sup>
2. Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A.M.R.S.A. section 2691
3. Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

#### **8.2 Basic Requirements:**

The following activities shall not require a building permit: repairs, replacement, and/or normal maintenance not requiring structural elements, decorative changes in existing structures or buildings, provided that the activity is in conformance with Federal, State or local laws and does not involve any other physical changes requiring a permit under this ordinance.

#### **8.3 Permit Application:**

- A. Every applicant for a permit shall submit a written application which shall include the following information:
  1. Structures to be erected, structures to be moved, and exterior additions existing structures:
    - a. The shape, size and location of the lot for which application is made.
    - b. The shape, size and location of the lot of the proposed structure, and of any proposed additions to existing structures
    - c. The shape, size and location of any other existing structures on the lot.

- d. The location of adjacent structures on adjacent lots, with reference to the distance from the lot line.
2. The above requirements shall not apply to alterations wholly within an existing structure.
3. All applications shall also include:
  - a. The name and address of the property owner.
  - b. The name, address and telephone number of the person, firm, or firms involved in the construction of the property.
  - c. The value of the proposed construction.
  - d. A statement of the proposed use for any new or moved structure or altered portion of an existing structure
  - e. Any other information the applicant wishes to furnish
  - f. Any other information requested by the Code Enforcement Office to make the application intelligible, and to determine whether the proposed construction will conform to this ordinance, and other local ordinances and state law.
  - g. A certificate that the information in the application is complete and correct to the best of the applicants knowledge and belief.
4. All applications for Building or Use Permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose. All applications shall be signed by the owner of the property or other person authorizing the work.
5. All applications shall be dated, and the Code Enforcement Officer shall not upon each application the date and time of its receipt at his office.
6. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system
7. When an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and

sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

B. Upon receipt of a permit application the Code Enforcement Officer shall:

1. Decide whether the information in the application is sufficient for him/her to determine whether, under the ordinance, the permit should be issued, or if the application is otherwise inadequate, he shall at once notify the applicant in writing, indicating what necessary information is required to correct the application. If the application is not so corrected he shall deny it.
2. Within 10 days of the filing of an application for a Building or Use Permit, the Code Enforcement Officer shall approve, deny or refer to the Planning Board for Conditional Use Permit, all such applications. His decision shall be in writing on a form designed for the purpose, and communicated directly to the applicant. One copy of the Code Enforcement Officer's decision shall be filed in the Municipal Town Office. In cases where the Code Enforcement Officer deems that a Conditional Use Permit is required, he shall also provide a copy of his decision to the Planning Board.
3. If the application does not conform, he shall within 10 days, deny the permit in writing, stating therein his reasons for denial. In the event he proposed building or structure is so constructed or is of such usage as to require a review of the application by other authorities or boards, as determined by reference to the land use regulation file, the Code Enforcement Officer shall refer the applicant to the appropriate authority or board, for review, approval or denial. Upon his receipt of the decision of the reviewing authority or board, in writing, and if such decision is an approval, the Code Enforcement Officer shall issue the permit with any conditions prescribed by the reviewing authority or board.
4. The Code Enforcement Officer shall not issue any building permit if he has knowledge that a particular structure would be located in an unapproved subdivision, and /or if he has knowledge that the structure would be in violation of a particular State law or local ordinance. In denying any permit under these circumstances, the Code Enforcement Officer shall state in writing the reasons for denial. If he shall fail, for any reason, within 10 days either to issue a permit or

deny an application in writing, such failure shall be deemed a denial so that the applicant may appeal to the Board of appeals if he so wishes.

- C. Applications for permits with their accompanying plans shall be maintained as a permanent record by the Municipal Officers or the Code Enforcement Officer.
- D. A Building Permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one year of the date on which the permit is granted, or if the work or change is not substantially completed

#### **8.4 Building Permit Fee:**

The Municipal Officers shall on an annual basis determine a fee schedule.

#### **8.5 Plumbing Permit Required:**

No Building Permit shall be issued for any structure or use involving the construction, installation or alteration of plumbing facilities unless a valid Plumbing Permit has been secured by the applicant or his authorized agent in conformance with the sanitary provisions of this Ordinance, and with the provisions of the State Plumbing Code.

#### **8.6 Certificate of Occupancy Required:**

- A. A certificate of occupancy issued by the Code Enforcement Officer is required in advance of the use or occupancy of:
  - 1. Any lot, or change of the use thereof.
  - 2. A structure hereafter erected or a change in the use of an existing structure, or as the building code requires.
- B. No certificate of occupancy shall be issued unless the lot or building or structure complies with all the provisions of this ordinance. A record of all certificates of occupancy shall be kept on file in the Code Enforcement office and a copy shall be furnished on request, to any person having a propriety or tenancy interest in the structure or land involved.

#### **8.7 Code Enforcement Officer:**

- A. This Ordinance shall be enforced by a Code Enforcement Officer appointed by the Municipal Officers. If the Code Enforcement Officer should find that any provision of this Ordinance is being violated, he shall notify in writing the person(s) responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings, structure, additions, or work being done; or

shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

- B. The Code Enforcement Officer should maintain a current file of all pertinent Federal, State and local statutes, ordinances, regulations, codes, and plans relating to land-use regulation including local subdivision plans.
- C. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to approval. The Code Enforcement Officer may enter any property at reasonable hours and enter any structure with the consent of the property owner, occupant or agent, to inspect the property or structure for compliance with the laws or ordinances set forth in this section. If consent is denied he should obtain an administrative warrant before entering the property. The Code Enforcement Officer may revoke a permit if it was issued in error or based on false information.

### **8.8 Violations, Legal Action, and Fines.**

- A. When any violation of any provision of this Ordinance is found to exist, the Municipal Attorney, as designated by the Municipal Officers, either on his own initiative, or upon notice from the Code Enforcement Officer, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Municipality.
- B. Any person, firm or corporation being the owner or having control of any building, land- use, or premises, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, M.R.S.A., Section 4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense.

### **8.9 Conditional Use Permits:**

- A. Authorization:

The Planning Board is hereby authorized to hear and decide upon application for Conditional Use Permits in accordance with State law and the provisions of this Ordinance.

- B. Powers and Duties:

The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for Conditional Use Permits. No Conditional Use Permit shall be authorized unless specific provision for such Conditional Use is made in this Ordinance.

C. Activities Requiring Conditional Use Permits:

A Conditional Use Permit shall be required for any land use or activity which is classified as a "Conditional Use" in Table 4 of this Ordinance. A Conditional Use Permit shall also be required for any substantial increase or expansion in the volume or intensity of any existing non-agricultural or non-single family residential use, or for the resumption of any such use on a continued basis which has been discontinued for at least two (2) years.

D. Application Procedure:

1. A person informed by the Code Enforcement Officer that he requires a Conditional Use Permit shall file an application for the permit with the Planning Board on forms provided for the purpose. All plans for Conditional Uses presented for approval under this section shall be drawn at a scale of not smaller than one (1) inch equals fifty (50) feet and show the following information unless the Planning Board waives these requirements:
  - a. An appropriate place for the signatures of the Planning Board,
  - b. A date, scale, and arrow showing both true and magnetic north,
  - c. The zoning district where the premises in question is located,
  - d. All existing and proposed setback dimensions.
  - e. All landscaped areas, fencing and size and type of plant material upon the premises in question.
  - f. All proposed signs and their size, location and direction of illumination.
  - g. All existing and/or proposed buildings, if any, with dimensions showing finished grade elevations at all corners and entrances, plus all existing or proposed parking areas.
  - h. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed.
3. Within 20 days of the public hearing, or 30 days of the application being filed if no public hearing is held, the Planning Board shall reach a decision on a Conditional Use and shall inform, in writing, the applicant, the Code Enforcement Officer and Municipal Officers of its decision and its reasons therefore.
4. Upon notification of the decision of the Planning Board, the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a Building Permit.

5. A Conditional Use Permit secured under the provision of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not commenced within one year of the date of which the Conditional Use is authorized, or if the work or change is not substantially completed within two years.

E. Public Hearings:

1. In scheduling Public Hearings under this Ordinance, the Planning Board shall notify the Selectmen, the Code Enforcement Officer, and the Board of Appeals, at least twenty (20) days in advance of the time and place of the hearing, and shall publish notice of the hearing at least 10 days in advance in a newspaper of general circulation in the area.
2. The Planning Board shall notify, by certified mail, the applicant and the owners of all property within 500 feet of the property involved, at least ten (10) days in advance of the hearing, of the nature of the application and of the time and place of the public hearing
3. The owners of property shall be considered to be those against whom taxes are assessed.
4. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.
5. At any hearing a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.
6. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.

F. Factors Applicable to Conditional Uses:

1. In considering a Conditional Use Permit the Planning Board shall evaluate immediate and long-range effects of the proposed use, and the following factors:
  - a. The compatibility of the proposed use with adjacent land uses and other property in the district
  - b. The need of a particular location for the proposed use;
  - c. The impact of the proposed use on local population and community facilities;
  - d. The impact of the proposed use on transportation facilities;

- e. The maintenance of safe and healthful conditions;
  - f. Existing topographic and drainage features and vegetative cover on the site;
  - g. The prevention and control of water pollution and sedimentation;
  - h. The location of the site with respect to flood plains and floodways of rivers or streams.
2. Before any Conditional Use Permit may be issued, the Planning Board shall make written findings certifying compliance with the relevant Performance Standards in Article 5 of this Ordinance, and certifying that satisfactory provision and arrangement has been made concerning the following, where applicable:
- a. Ingress and egress to property and proposed structures thereon, with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - b. Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the Conditional Use on adjoining properties and properties generally in the district;
  - c. Refuse and service areas, with particular reference to the items in (1) and (2) above;
  - d. Utilities, with reference to locations, availability, and compatibility;
  - e. Screening and buffering with reference to type, dimensions, and character;
  - f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
  - g. Required yards and other open space; and
  - h. Within the Shoreland Overlay and Resource Protection Districts the Board shall determine the proposed use and structure(s):
    - i. Will adequately provide for the disposal of all wastewater;
    - ii. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
    - iii. Will conserve shore cover and visual, as well as actual, points of access to water bodies;

- iv. Will protect archaeological and historic resources as designated in the comprehensive plan;
- v. Will avoid problems associated with flood plain development and use; and
- vi. Is in conformance with the provisions of Articles 4 and 5.

G. Conditions Attached to Conditional Uses:

1. Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance that would mitigate any adverse effects on adjoining or neighboring properties, which might otherwise result from the proposed use. These conditions may include, but are not limited to, specifications for: type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; locations of piers, docks, parking and signs; type of construction; or any other conditions, restriction, or safeguard that would uphold the spirit and intent of this Ordinance.
2. In order to secure information upon which to base its determination, the Planning Board may require the applicant to furnish, in addition to the information required for a Conditional Use Permit, the following information:
  - a. A plan showing contours (at intervals to be determined by the Planning Board) showing Mean Sea Level, high water elevation, groundwater conditions, bedrock, slope and vegetative cover.
  - b. A high-intensity soils report identifying the soils boundaries and names in the proposed development, with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification.
  - c. Location of existing and proposed buildings, parking areas, traffic access, driveways, walkways, piers, open spaces, and landscaping.
  - d. Plans of buildings, sewage disposal facilities and water supply systems.
  - e. Other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance. In evaluating each application the Planning Board may request the assistance of the Regional Planning Commission, County Soil and Water Conservation District and any other State or Federal agency which can provide technical assistance.

H. Violations.

1. Failure to comply with any conditions of a Conditional Use Permit subsequent to the receipt of a building permit, shall be construed to be a violation of this regulation and shall be grounds for revoking the building permit; initiating legal proceedings to enjoin construction, development, or any specific activity violating the conditions of permit approval; or applying the legal penalties of Section 6.6.B.
2. In instances where no new building or construction is proposed, establishment of a new use or resumption of a use which has been discontinued for at least two (2) years, if accomplished without Planning Board approval, shall constitute a violation of this ordinance.

## **Article 9 Board of Appeals:**

- 9.1 Establishment and Organization**
- 9.2 Proceedings of the Board of Appeals**
- 9.3 Powers and Duties of the Board of Appeals**
- 9.4 Variances**
- 9.5 Appeal Procedure**
- 9.6 Decisions of the Board of Appeals**
- 9.7 Stay of Proceedings**

### **9.1 Establishment and Organization:**

A Board of Appeals is hereby established which shall consist of five (5) members. The terms of office of a member or associate is five (5) years serving staggered terms. A municipal officer or his spouse may not be a member or associate member of the Board of Appeals. When a regular member of the Board is unable to act because of interest, physical incapacity or absence, an associate member shall act in his stead. Members of the Board of Appeals shall be appointed by the municipal officers. When there is a permanent vacancy, the municipal officers shall appoint a new member to serve for the remainder of the unexpired term. Members of the Board of Appeals may be removed from office by the municipal officer for cause upon written charges and after public hearing. The Board of Appeals shall elect a chairman and secretary from its own membership.

### **9.2 Proceedings of the Board of Appeals:**

The Board of Appeals shall adopt rules necessary to the conduct of its affairs, in keeping with the provisions of this ordinance and Title 30, section 2411 of the Maine Revised Statutes Annotated. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or of absence or failure to vote, (and) shall keep records of its examinations and other official actions, all of which shall be a public record and be filed in the town offices. A quorum shall consist of three members.

### **9.3 Powers and Duties of the Board of Appeals:**

The Board of Appeals shall have the following powers:

#### **A. Administrative review:**

To hear and decide appeals where it is alleged there is a land use violation or error in any order, requirement, decision, or determination made by the Codes Enforcement Officer in the enforcement of this ordinance.

B. Variances:

To authorize variances upon appeal in specific cases, but only within the limitations set forth in this ordinance.

C. Interpretations of the Ordinance:

**9.4 Variances. Variances may be permitted only under the following conditions:**

- A. Variances are obtainable only for height, minimum lot size, structure size, setbacks and open space requirements.
- B. Variances cannot, under any circumstances, be obtainable for establishment of any uses otherwise prohibited.
- C. The Board shall not grant a variance unless it finds that all the following criteria are met:

- 1 That the land in question cannot yield a reasonable return unless a variance is granted;
- 2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- 3. That the granting of a variance will not alter the essential character of the locality; and;
- 4. That the hardship is not the result of action taken by the applicant or a prior owner.

Such hardship may be found by the Board of Appeals where the Zoning Ordinance, as applied to the applicant's property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put. Mere inconvenience to the property owner shall not satisfy this requirement. Neither financial hardship alone nor pleading that a greater profit may be realized from the applicants property were a variance granted shall be sufficient evidence of unnecessary hardship.

- D. The Board shall limit any variances granted as strictly as possible in order to preserve the terms of the ordinance as much as possible, and it may impose such conditions to a variance as it deems necessary, to this end.

## 9.5 Appeal Procedure:

### A. Making an Appeal:

1. An appeal may be taken to the Board of Appeals by an aggrieved person from any decision of the Code Enforcement Officer. Such appeal shall be taken within thirty (30) days of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
2. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, specifying the grounds for such appeal. For a variance appeal the applicant shall submit:
  - a. A sketch drawn to scale showing lot lines, location of existing building and other physical features pertinent to the variance request.
  - b. A concise written statement stating what variance is requested.
3. Upon being notified of an appeal the Code Enforcement Officer shall transmit to the Board all the papers specifying the record of the decision appealed from. Each appeal shall be accompanied by a fee to cover advertising and administrative costs. If the actual cost of advertising exceeds the fee paid the applicant shall pay the balance. The Board of Appeals shall hold a public hearing on the appeal within forty five (45) days.
4. A copy of each variance request, in the Shoreland Zone, including the application and all supporting information supplied by the applicant, shall be forwarded by the Municipal Officials to the Commissioner of the Department of Environmental Protection at least twenty days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

### B. Procedure on Appeal:

1. At least fifteen (15) days prior to the date of the hearing on such appeal, the Board shall cause to be published in one issue in a newspaper of general circulation in the Town a notice which includes:
  - a. The name of the person appealing.
  - b. A brief description of the property involved.
  - c. A brief description of the decision appealed from, or the nature of a variance appeal.

- d. The time and place of the Board hearing.
  2. At least ten (10) days prior to the date set for hearing, the Board shall also cause the Town Clerk to give similar written notice to:
    - a. All property owners of record, whose properties lie within 200 feet of the affected property,
    - b. The person making the appeal, and
    - c. The Planning Board and any other parties of record.
  3. In the Shoreland Zone a copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
- C. Hearings:
1. The Board may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross—examinations as may be required for a full and true disclosure of the facts.
  2. The appellant’s case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the chair. All persons at the hearing shall abide by the order of the Chairman.
  3. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.
  4. The Code Enforcement Officer shall attend all hearings and may present to the Board of Appeals all plans photographs, or other material he deems appropriate for an understanding of the appeal.
  5. The transcript of testimony if any and exhibits together with all papers and requests filed in the proceedings, shall constitute the record.

## **9.6 Decisions of the Board of Appeals:**

- A. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Code Enforcement Officer, or to decide in favor of the applicant on any matter on which it is required to pass under this ordinance, or to affect any variation in the application of this ordinance.
- B. The Board shall decide all appeals within thirty (30) days after hearing, and shall issue a written decision on all appeals.
- C. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented, and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent, the Planning Board, and the Municipal Officers within seven (7) days of the decision date.
- D. Upon notification of the granting of an appeal by the Board of Appeals, the code Enforcement Officer shall immediately issue a Permit in accordance with the conditions of the approval, unless the applicant needs a Conditional Use Permit.
- E. Appeals may be taken as permitted by law from any decision of the Board of Appeals to Superior Court.

## **9.7 Stay of Proceedings:**

An appeal stays all legal proceedings in a furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.