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SECTION 1. GENERAL

A. TITLE

This Ordinance shall be known and cited as the Land Use Ordinance of the Town of Dexter, Maine, and will be referred to as “this Ordinance.”

B. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of Title 30-A, MRSA Section 3001 (Home Rule), the State’s growth management law, Title 30-A, MRSA, Sections 4311 et. seq., and under Article VI, Section 6.01 of the Charter of the Town of Dexter.

C. PURPOSES

The purpose of this Ordinance is to promote the health, safety, and general welfare of the residents of the community, while :

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

D. APPLICABILITY

The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Dexter.

E. CONFLICTS WITH OTHER ORDINANCES

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

F. VALIDITY AND SEVERABILITY

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

G. EFFECTIVE DATE

The effective date of this Ordinance shall be the date of the adoption by vote of the Town Council.

H. AMENDMENTS

This Ordinance may be amended by majority vote of the Town Council.

SECTION 2. LAND USE DISTRICT REQUIREMENTS

A. PURPOSE

Four land use districts are hereby created within the Town of Dexter.

These districts are designed to :

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

B. DISTRICT OBJECTIVES

The following Land Use Districts are hereby established in the Town Of Dexter :

1. “Commercial”

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

2. “Residential”

Purpose : The Residential District is intended to provide an area that restricts intensive uses so that residents may enjoy a measure of quietness and privacy in their homes, while optimizing the utilization of in-place facilities, thereby reducing the fiscal burden of new infrastructure construction on all citizens of Dexter. ***The creation of the Residential District is also intended to insure that the operation and maintenance of any motor vehicle repair facility located in this district does not have a negative effect on the public safety, health, general welfare or the natural environment.***

3. “Rural”

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

4. “Industrial”

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

C. BOUNDARIES

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

D. DISTRICT DESCRIPTIONS

1. Commercial District

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

1. North along the east side of Rt. 7 beginning at the property found on tax map 102 as lot 20, excluding any portion of the property found on tax map 102 as lot 19, ending at and including the property found on tax map 7 as lot 24.
2. North along the west side of Rt. 7 , beginning at the property found on tax map 102 as lot 4, ending at and including the property found on tax map 7 as lot 63.
3. Southeast along both sides of the Garland Rd. from the intersection of Rt. 7, ending at and including the properties found on tax map 16 as lots 44-A and 45.
4. Along Main St. :
 - a. On the north side, southwest from Spring St. ending at and including the property found on tax map 10 as lot 18.
 - b. On the south side, southwest from Spring St. to the northeast corner of Center St., then east along the north side of Center St. to the intersection of Center St. and Spring St.
5. Along Grove St. :
 - a. On the north side, north from Rt. 7 ending at and including the property found on tax map 8 as lot 13.
 - b. On the south side, north from Rt. 7 ending at the property found on tax map 8 as lot 1.

2. Residential District

The Residential District encompasses those properties which in 1997 were serviced by or were accessible by the Dexter Utility District water and or sewer lines, if those lots are not greater than 300 ft. from those utility lines, and which are not located in the Commercial or the Industrial Districts.

3. Rural District

The Rural District encompasses all properties not found in the Commercial, Residential or the Industrial Districts.

4. Industrial District

The Industrial District encompasses the following properties on the maps indicated :

1. Tax map 401 as lots 22, 127, 128, and 129.
2. Tax map 12 as lots 89, 90, and 106.
3. Tax map 14 as lots 10 and 55B.
4. Tax map 15 as lots 1 and 31.
5. Tax map 17 as lot 3.
6. Tax map 18 as lots 3, 8, 9, 9A, 10, 12, 13, 14, 16, and 17.
7. Tax map 28 as lots 1 & 1-A.

E. LAND USES

The land uses permitted in each district must conform to the following table:

TYPE OF USE OR STRUCTURE	TABLE OF LAND USES				
	KEY	YES =	Allowed with Permit		
		NO =	Not Allowed		
	DISTRICTS				
	COMMERCIAL	RESIDENTIAL	RURAL	INDUSTRIAL	
RESIDENTIAL					
Accessory	YES	YES	YES	YES	
Cluster Housing	YES	YES	YES	NO	
Congregate Housing	YES	YES	YES	NO	
Duplex, 2-Family Dwelling	YES	YES	YES	NO	
Essential Services	YES	YES	YES	YES	
Multi-Family Dwelling	YES	YES	YES	NO	
Manufactured Housing	YES	YES	YES	NO	
Single-Family Dwelling	YES	YES	YES	NO	
Signs	YES	YES	YES	YES	
Outdoor wood furnace	YES	YES	YES	YES	
COMMERCIAL					
Accessory	YES	YES	YES	YES	
Agriculture/Aquaculture	YES	NO	YES	NO	
Agriculture/Aquaculture Products Processing and Storage	NO	NO	* YES	NO	
Airport	NO	NO	NO	YES	
Amusement Facility	YES	NO	NO	NO	
Animal Breeding or Care	NO	NO	YES	NO	
Automobile Graveyard/Junkyard	NO	NO	* YES	NO	
Automobile Repair, Body Shop, Sales, Car Wash	* YES	*NO	* YES	* YES	
Bed And Breakfast	YES	YES	YES	NO	
Boarding, Lodging	YES	YES	YES	NO	
Boat Building, Repair	YES	NO	YES	YES	
Building Materials, Retail Sales	YES	NO	YES	YES	
Campground	NO	NO	YES	NO	
Commercial Recreation	YES	NO	YES	NO	
Commercial School	YES	NO	YES	NO	
Essential Services	YES	YES	YES	YES	
Extractive Industries	NO	NO	* YES	NO	
Farm Stands	YES	NO	YES	NO	
Firewood Processing	NO	NO	YES	YES	
Fisheries Processing/Storage	NO	NO	NO	YES	
Forestry	NO	NO	YES	NO	
Gasoline Service Station	* YES	NO	* YES	* YES	
Golf Course (excluding miniature golf)	NO	NO	YES	NO	

Greenhouses	YES	NO	YES	NO
Home Occupation	YES	YES	YES	NO
Hotel/Motel	YES	NO	YES	YES
Indoor Theater	YES	NO	YES	NO
Kennel, Stable	NO	NO	YES	NO
Methadone Clinic (see notes to Table)	NO	NO	YES **	NO
Mobile Home Park	NO	YES	YES	NO
Mobile/Modular Home Sales	YES	NO	NO	YES
Neighborhood Convenience Store	YES	YES	YES	NO
Offices: Business, Professional, Medical	YES	YES	YES	YES
Parks and Recreation	YES	YES	YES	NO
Publishing, Printing	* YES	NO	NO	* YES
Radio/Television Tower	NO	NO	YES	NO
Restaurant	YES	NO	YES	YES
Retail Business	* YES	NO	* YES	* YES

TYPE OF USE OR STRUCTURE	DISTRICTS			
	COMMERCIAL	RESIDENTIAL	RURAL	INDUSTRIAL
COMMERCIAL (cont'd)				
Sawmill	NO	NO	YES	YES
Service Business	* YES	NO	* YES	* YES
Shopping Center	YES	NO	NO	NO
Small Engine Repair	YES	NO	YES	YES
Veterinary Hospital	YES	NO	YES	NO
Warehousing and Storage	* YES	NO	NO	* YES
Wholesale Business	YES	NO	YES	YES
INDUSTRIAL				
Accessory	NO	NO	NO	YES
Bulk Oil/Gas Terminal	NO	NO	NO	YES
Demolition/Waste Disposal	NO	NO	NO	YES
Essential Services	NO	NO	NO	YES
Manufacturing	NO	NO	NO	* YES
Recycling Operations	NO	NO	NO	YES
Sawmill	NO	NO	NO	YES
Trucking Distribution Terminal	NO	NO	NO	YES
Transportation, Communication Facilities	NO	NO	NO	YES
Warehousing and Storage	NO	NO	NO	* YES
EDUCATION, INSTITUTIONAL, PUBLIC				
Accessory	YES	YES	YES	YES
Cemetery	NO	NO	YES	NO
Church, Synagogue, Parish House	YES	YES	YES	YES
Community Center/Club	YES	YES	YES	NO
Day Care	YES	YES	YES	YES
Essential Services	YES	YES	YES	YES
Fire, Police Station	YES	YES	YES	YES
Government Office	YES	NO	NO	NO
Group Homes, Hospice	YES	YES	YES	NO
Health Care Facility	YES	YES	YES	NO
Hospital	YES	YES	YES	NO

Methadone Clinic (see notes to Table)	NO	NO	YES **	NO
Museum	YES	NO	YES	YES
Public Utility Facility	YES	YES	YES	YES
Public, Private School	YES	YES	YES	NO

Note to Table of Land Uses :

Watershed Protection Area. When a given area or lot of land is located entirely or partially within the watershed areas of Lake Wassookeag and Echo Lake (also known as Puffers Pond), as recognized by the Maine D. E. P., the following new commercial or industrial uses, as indicated by * appearing in the table, are not permitted:

- a. Auto washing facilities
- b. Auto or other vehicle service and/or repair operations, including body shops
- c. Automobile Graveyards/Junkyards
- d. Chemical and bacteriological laboratories
- e. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
- f. Commercial painting, wood preserving, and furniture stripping
- g. Dry cleaning establishments
- g. Electronic circuit assembly
- i. Laundromats, unless connected to a sanitary sewer
- j. Metal plating, finishing, or polishing
- k. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- l. Photographic processing
- m. Printing
- n. Extractive Industries

F. MOTOR VEHICLE FACILITIES:

Motor vehicle facilities, in any residential zone, shall be enclosed by a fence of such construction to discourage access (trespass) and screen from view the contents within, from any portion of a road or any property not in the same ownership adjacent to the motor vehicle repair facility. The security fence must be a minimum height of six (6) feet, well-constructed and be acceptable to municipal officials. The screening requirement may be accomplished by plantings that blend with the landscape to establish a natural appearance.

G. DIMENSIONAL STANDARDS

The following dimensional standards shall apply throughout the entire Town of Dexter :

DISTRICTS	Commercial	Residential	Rural	Industrial
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DIMENSIONS

1. Minimum Lot Area

(a) With public sewer	10,000 sq. ft.	7,500 sq. ft.	7,500 sq. ft.	10,000 sq. ft.
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(b) Without public sewer	20,000 sq. ft.	20,000 sq. ft.	1 acre	20,000 sq. ft.
2. Minimum Lot Frontage	75 feet	100 feet	150 feet	100 feet
3. Minimum Structure Setbacks				
Front Setback	10 feet	10 feet	10 feet	10 feet
Side Setback	None	10 feet	10 feet	10 feet
Rear Setback	None	10 feet	10 feet	10 feet

- A. **Required Frontage.** All lots hereinafter created after the effective date of this Ordinance shall possess a minimum frontage (1) on a road as defined in this Ordinance, or (2) on a deeded private right-of-way which meets the specifications for road construction contained in the Town’s Subdivision Review Standards, provided, however, that for back lots not part of a subdivision, this road frontage requirement shall not apply if access from a Road to the backlot is provided by a deeded private right-of-way which meets the specifications for road construction contained in the Town’s Subdivision Review Standards. The existing fire lanes in Dexter are accepted as meeting this requirement for a deeded private right-of-way for seasonal use only. For purpose of this subsection, seasonal use is defined as between the dates of May 15th. and October 1st.
- B. **Cul-de-Sac Frontage.** New building lots located at the end of cul-de-sacs shall be designed so that they have a minimum of 100 feet of street frontage along the front lot line in the rural district or a minimum of 50 feet of street frontage in all other districts; and, all other dimensional requirements shall apply.
- C. **Setback Measurements.** All setbacks shall be measured from the property line to the nearest part of the building.
- D. **Front Setback.** The minimum front setback along a public road shall be measured from the edge of the right-of-way line, according to the above table. The depth of any yard abutting a public road shall conform to the front setback.
- E. **Driveways, Parking Areas.** Driveways and parking areas may be located within any required setback area but shall not be located within six (6) feet of the side or rear lot lines.
- F. **Signs.** *The following provisions shall govern the use of signs in the Residential District:*
- i. *Signs relating to goods or services not sold or rendered on the premises shall be prohibited.*
 - ii. *Personal signs shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises.*
 - iii. *Residential users may display a single sign not over three (3) feet square in area relating to the sale, rental, or lease of the premises.*
 - iv. *Signs relating to trespassing and hunting shall be permitted without restriction as to the number provided that no sign shall exceed two (2) square feet in area.*
 - v. *Signs relating to public safety shall be permitted without restriction.*
 - vi. *No sign shall be higher than ten (10) feet above the ground.*
 - vii. *Signs may be illuminated only by shielded, non-flashing lights.*

SECTION 3. NON-CONFORMANCE

A. PURPOSE

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

B. GENERAL REQUIREMENTS

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

C. NON-CONFORMING STRUCTURES

1. Expansions:
 - (a) A non-conforming structure may be added to or expanded after obtaining a permit from the permitting authority.
 - (b) Said addition or expansion shall not increase the non-conformity of the structure with respect to minimum yard dimensions and property setbacks.
 - (c) Structures shall not be enlarged in a manner that violates or worsens the standard regarding the minimum lot area per dwelling unit (e.g., expansion of a single-family dwelling on a non-conforming lot to create a multi-family dwelling).
 - (d) The installation or construction of accessory structures, such as garage or shed outbuildings, shall be deemed an expansion or addition of a non-conforming structure.
2. Relocation:
 - (a) A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located.
 - (b) The site of relocation shall conform to all setback or other dimensional requirements to the greatest practical extent as determined by the permitting authority.
 - (c) The applicant shall demonstrate, if necessary, that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules or that a new system can be installed in compliance with the law and said Rules.
 - (d) To determine compliance, the permitting authority shall base its decision on the size of the lot, the slope of the land, the potential for soil erosion, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

3. Reconstruction or Replacement:

(a) Any non-conforming structure may be reconstructed or replaced provided that a permit is obtained from the permitting authority within two (2) years from the date of the event or occurrence causing the need to replace or reconstruct such structure.

(b) Such reconstruction or replacement shall comply with the setback or other dimensional requirements to the greatest practical extent as determined by the permitting authority.

(c) The applicant shall demonstrate that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules.

D. NON-CONFORMING USES

1. Expansion:

An existing non-conforming use may be expanded, after obtaining a permit from the permitting authority, unless it is found that the plan does not meet the intent of this Ordinance.

2. Change of Use:

(a) An existing non-conforming use may be changed to another non-conforming use after obtaining a permit.

(b) The permitting authority shall approve a change of use unless it is found that the proposed use is not equally or more appropriate to the district than the existing non-conforming use.

(c) The proposed use shall have no greater adverse impact on adjacent properties than the former existing non-conforming use.

(d) A permitted or conforming use shall not be changed to create a non-conforming use.

3. Discontinuance:

(a) A non-conforming use that has been discontinued or abandoned for two (2) or more years shall not be resumed and such non-conforming use shall be deemed extinguished.

(b) The removal or demolition of a non-conforming structure, for whatever reason, shall not constitute an abandonment of a non-conforming structure or use, provided that the required permit for such replacement structure is obtained from the permitting authority within two (2) years from the date of removal of such non-conforming structure.

4. Succession:

Where a non-conforming use is succeeded by a permitted use, the property shall thereafter conform to the permitted uses, and such non-conforming use shall not thereafter be resumed.

E. NON-CONFORMING LOTS

1. Vacant Lots:

- (a) A vacant, non-conforming lot of record legally existing on the effective date of this Ordinance may be built upon without the need for a variance.
- (b) Said lot must be held in separate ownership and not contiguous with any other lot in the same ownership.
- (c) All provisions of this Ordinance except lot size and frontage must be met.
- (d) Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals.
- (e) If more than one residential dwelling unit or other use is built, located or created on a non-conforming lot of record, the minimum lot size shall be met for each residential dwelling unit, and the frontage and all setback requirements of the District shall be met.

2. Contiguous Lots - Built:

- (a) If two or more contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together.
- (b) All such lots shall meet the requirements of the Subsurface Wastewater Disposal Rules.
- (c) When such lots are divided, each lot thus created must conform to the dimensional requirements of this Ordinance, to the greatest practicable extent.

3. Contiguous Lots - Vacant or Partially Built:

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

4. Single Lot with Multiple, Principal Structures - Division:

- (a) If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold as/on a separate lot.
- (b) All resulting lots shall meet the requirements of the State Subsurface Wastewater Disposal Rules.

(c) A permit shall be required prior to the creation of a non-conforming lot through the division of a lot of record with multiple, principal structures or uses thereon.

(d) The permitting authority shall issue the required permit upon its findings that each lot created by the division conforms, to the greatest practicable extent, to the setback and dimensional requirements of this Ordinance, other than lot area.

4. ADMINISTRATION, ENFORCEMENT AND PENALTIES

A. ADMINISTERING BODIES AND AGENTS

1. Code Enforcement Officer

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

- (a) Enforce the provisions of this Ordinance.
- (b) As the permitting authority, review all applications for land use permits and issue permits when appropriate, and refer requests for variances and administrative appeals to the Board of Appeals.
- (c) With the consent of the owner, occupant or agent, enter any property or enter any building, at reasonable hours, to inspect the property or building for compliance with this Ordinance.
- (d) Investigate complaints and reported violations and issue violation notices.
- (e) Keep written inspection reports and thorough records.
- (f) Inform any aggrieved party of his/her rights to appeal any decision by the Code Enforcement Officer, and provide the aggrieved party with a copy of the procedures for appealing any such decision.
- (g) Participate in appeals procedures and appear in court when necessary.

2. Board of Appeals

The Board of Appeals shall be responsible for deciding administrative and variance appeals in accordance with the requirements of Section 5 of this Ordinance.

3. Town Manager

The Town Manager shall be responsible for overseeing the resolution of legal actions, as outlined in Section 4. F. (2) of this Ordinance.

B. PERMITS REQUIRED

1. After the effective date of this Ordinance no person shall, without first obtaining a permit:

- (a) Engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur.
- (b) Expand, change, or replace an existing use or structure. or
- (c) Renew a discontinued nonconforming use.

2. Whenever a proposed use or structure is regulated by any other Dexter Ordinance, or any other state or federal law, rule or regulation, the permitting procedures outlined in that Dexter Ordinance, or other state or federal law, rule or regulation must also be followed.

C. PERMIT APPLICATION

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

Principal structures (includes mobile home placement)	-	\$ 50.00
Accessory structures (garages, sheds, etc.)	-	\$ 20.00
Additions to existing structures	-	\$ 20.00
Commercial activities	-	\$ 20.00

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

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

D. PROCEDURE FOR ADMINISTERING PERMITS

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

E. EXPIRATION OF PERMIT

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

F. ENFORCEMENT

1. Enforcement Procedure
 - (a) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code

Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

(b) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

(c) If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating :

- i. The nature of the violation.
- ii. The action necessary to correct the violation, including the discontinuance of illegal use of land, buildings or structures, or work being done.
- iii. The ordering of the removal of any illegal buildings or structures. and
- iv. The abatement of any nuisance conditions.

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

2. Legal Actions

When the above action does not result in the correction or abatement of the violation, the Town Manager, or his/her designee, upon notice from the Code Enforcement Officer, is hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The Town Manager or his/her designee, is hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recording fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by a municipal official authorized to administer this Ordinance, and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in substantial environmental damage.

3. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A MRSA Section 4452.

SECTION 5. APPEALS

A. POWERS AND DUTIES

In adjudicating administrative and variance appeals to this Ordinance, the Board of Appeals shall have the following powers and duties :

1. Administrative Appeals

- (a) Whenever an uncertainty exists as to the exact location of a district boundary line, the Board of Appeals shall be the final authority as to location.
- (b) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in the enforcement or administration of this Ordinance.

2. Variance Appeals

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

- (a) Variances may be granted only from dimensional requirements including frontage, lot area, lot width, and setback requirements.
- (b) Variances shall not be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of non-conformities in the immediate or adjacent districts.
- (c) The Board shall not grant a variance unless it finds that:
 - i. The proposed structure or use would meet the standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and
 - ii. The strict application of the terms of this Ordinance would result in undue hardship.The term “undue hardship” shall mean all of the following:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- (d) The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

- (e) If a variance is granted under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. The certificate must be recorded in the local registry of deeds within 30 days of the final approval of the variance or the variance is void. The variance is not valid until recorded as provided in this provision. The costs for the recording of any variance granted shall be borne by the applicant.

B. APPEAL PROCEDURE

1. Time Limit

An administrative or variance appeal may be taken to the Board of Appeals from any decision of the Code Enforcement Officer. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from.

2. Written Notice

Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:

- a. A completed form, provided by the municipality, which indicates the relief requested and why it should be granted.
- b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief requested.

3. Record of Case

Upon being notified of an appeal, the Code Enforcement Officer shall transmit to the Board of Appeals copies of all of the papers constituting the record of the decision being appealed.

4. Public Hearing

The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

5. Decision by Board of Appeals

- a. Quorum. A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- b. Majority Vote. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer, remand the matter to the Code Enforcement Officer, or to decide in favor of the applicant on any matter which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms.

- c. Burden of Proof. The person filing the appeal shall have the burden of proof.
 - d. Action on Appeal. Following the public hearing on an appeal, the board may affirm, affirm with conditions, or reverse the decision of the Code Enforcement Officer. The board may reverse the decision, or failure to act, of the Code Enforcement Officer only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance. When errors of administrative procedures or interpretations are found, the case shall be remanded back to the Code Enforcement Officer for correction.
 - e. Time Frame. The Board shall decide all appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals within seven (7) days of the decision.
 - f. Findings. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.
6. Appeal to Superior Court. Decisions of the Board of Appeals may be appealed to the Maine Superior Court pursuant to Maine Rules of Civil Procedure 80B within forty-five (45) days of the Boards decision
7. Reconsideration. The Board of Appeals may reconsider any decision reached within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

APPENDIX A. DEFINITIONS

A. CONSTRUCTION OF LANGUAGE

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

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

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

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

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

The word “building” is synonymous with the word “structure”.

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

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

B. DEFINITIONS

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

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

Accessory Use or Structure: A separated use or structure which is customarily both incidental and subordinate to the principal use or structure on the same lot only. The term “incidental” in reference to the principal use or structure shall mean both a) subordinate and minor in significance to the principal use or structure, and b) attendant to the principal use or structure. Such accessory uses, when aggregated, shall not subordinate the alleged principal use of the lot.

Aggrieved Party: A person whose land is directly or indirectly affected by the grant or denial of a permit or variance under this Ordinance, or a person whose land abuts or is across a road or street or body of water from land for which a permit or variance has been granted, or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

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

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

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

Amusement Facility: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, including but not limited to bowling alleys, table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

Animal Breeding or Care: The keeping or raising of four or more animals, including domestic animals and pets, for any commercial use. This definition also includes kennels.

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

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

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

Automobile Graveyard / Junkyard: A yard, field, or other area used as a place of storage, other than temporary storage by an establishment or place of business which is engaged primarily in doing auto body repair work for the purpose of making repairs to render a motor vehicle serviceable, for 3 or more unserviceable, discarded, worn-out, or junked motor vehicles as defined in Title 29 Section 1, Subsection 7, or parts thereof.

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

Boarding, Lodging Facility: Any residential structure where lodging and/or meals are

provided for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. When the criteria for a family residing in the building cannot be met, the building shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

Building: Any 3 dimensional enclosure by any building materials or any space for any use or occupancy, temporary or permanent, including swimming pools, foundations or pilings in the ground, and all parts of any kind of structure above ground including decks, railings, dormers, and stairs, and excluding sidewalks, fences, driveways, parking lots, electrical transmission and distribution lines, and field or garden walls or embankment retaining walls.

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

Campground: Land upon which one or more tents are erected or recreational vehicles are parked for temporary use for a fee on sites arranged specifically for that purpose.

Cemetery: Property used for the interring of the dead.

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

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

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

Cluster Housing: A development consisting exclusively of residential dwelling units, planned, developed as a whole or in a programmed series of developments, and controlled by one developer on a tract of 5 or more lots which contemplates an innovative, more compact grouping of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural characteristics of the land.

Code Enforcement Officer: A person appointed by the municipal officers to administer and enforce this Ordinance.

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

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

Commercial Use: Any activity carried out for pecuniary gain.

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

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

Congregate Housing: Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly or disabled occupants; the individuals are unable to live independently yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities. Congregate housing shall include only those facilities which have been certified by the State of Maine as meeting all certification standards and guidelines for congregate housing facilities as promulgated by the Department of Human Services pursuant to the provisions of Maine State Statutes.

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

Day Care: Homes and Centers licensed as such by the Maine Department of Human Services.

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

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

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

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

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

than two (2) families.

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

4. **Dwelling Unit** - A room or suite of rooms used by a family as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities.

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

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

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

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

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

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

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

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

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

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

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

Hardship: See Section 6.A (2) (1) of this Ordinance.

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

Environmental Protection.

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

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

1. Is carried on entirely within the residential dwelling unit or in an approved accessory structure located on the same property;
2. Is clearly secondary to the use of the dwelling for residential purposes and which does not change the character or appearance thereof;
3. Is clearly incidental to and compatible with the surrounding residential uses;
4. Employs no more than two (2) persons other than family members residing in the dwelling unit; and
5. Has no exterior display or storage of goods or stock in trade other than products entirely produced within the residential dwelling unit. (By way of illustration and not of limitation, this shall include : foods such as breads, cookies or preserves; dressmaking; rugs; quilts; birdhouses; fishing flies and lures)

The following uses are specifically prohibited as a “home occupation” :

- (1)Automobile rentals, sales, repair or body repair ;
 - (2)Small engine repair ;
 - (3)Welding or other similar activities ;
 - (4)Any occupation which, after Planning Board deliberation, is deemed not to be in the best interests of the health or safety of the inhabitants of Dexter or the conservation and preservation of the healthful conditions of the water bodies and shoreland areas in Dexter.
- For the purposes of the definition of a home occupation, a residence is defined as a dwelling unit occupied for more than seven (7) months annually.

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

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

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

- a. discarded, worn-out or junked plumbing, heating supplies, household appliances, and/or furniture;
- b. discarded, scrap, and junked lumber;
- c. old or scrap copper, brass, rope, rage, batteries, paper trash, rubber debris, waste, and all scrap iron, steel, and other scrap ferrous or nonferrous material; and
- d. garbage dumps, waste dumps, and sanitary fills.

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

Lot: An area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and

recorded in the County Registry of Deeds.

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

Lot. Minimum Area: The required lot area within a district for a single use.

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

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

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

- a. Front Lot Line: Interior lots: the line separating the lot from a street right-of-way. Corner lot or through lot; the line separating the lot from either street right-of-way. Where a right-of-way does not exist or cannot be determined the front lot line shall be the edge of the paved or graveled area of the road.
- b. Rear Lot Line: The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
- c. Side Lot Line: Any lot line other than the front lot line or rear lot line.

Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds.

Lot. Shorefront: Any lot abutting a body of water that is regulated by the shoreland zoning ordinance.

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

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

Manufactured Housing:

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

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes", which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning, or electrical systems

contained in the unit;

(i) This term also includes any structure which meets all the requirements of this subprogram, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the Standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq; and,

2. Those units commonly called “modular homes,” which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis when connected to required utilities, including the plumbing, heating, air conditioning, or electric systems contained in the unit.

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

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

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

Motor Vehicle Repair Facility: Any premises of a person who purchases, acquires, or stores motor vehicles for the purpose of making repairs or restoring motor vehicles to make them serviceable.

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

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

Parks and Recreation: Non-commercially operated recreation facilities open to the general public 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 and facilities. The term shall not include campgrounds, or commercial recreation and amusement centers.

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

Planned Unit Development: (See Cluster Development)

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

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

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

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

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

Restaurant: An establishment where meals are prepared and served to the public for consumption on the premises entirely within a completely enclosed building; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not permitted or encouraged by the design of the physical facilities, by advertising, or by the servicing or packaging procedures, to take out food or beverage for consumption outside the enclosed building.

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

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

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

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

Service Business: A commercial operation or activity engaged in the repair or

maintenance of goods or items either on or off the property, where the items or goods are not visible to the general public, including small engine repair.

Shopping Center: Any concentration of two or more retail stores or service establishments under one ownership or management containing 15,000 sq. ft. or more of gross floor space.

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

Structure: Anything constructed or erected, the use of which requires a fixed location on or in the ground or in the water, or an attachment to something having a fixed location on the ground, which occupies an area of one hundred (100) square feet or more. This includes but is not limited to buildings, billboards, signs, commercial park rides and games, carports, porches, and other building features, including stacks and antennas, but not including sidewalks, fences, driveways, parking lots, and field or garden walls or embankment retaining walls.

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

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

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

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

Wholesale Business: Any operation or activity, engaged in the sale of goods in large amounts to retailers or jobbers.

APPENDIX B: OUTDOOR WOOD BOILERS

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

86-01. LEGISLATIVE INTENT AND FINDINGS.

- A. Outdoor wood boilers are alternative sources for heat and hot water production and when operated improperly create significant amounts of particulate and smoke discharges that threaten public health, welfare, and safety.**
- B. Outdoor wood boilers are becoming more common, but government at the federal and state levels has not yet addressed their emissions issues, although the U. S. Environmental Protection Agency is currently considering regulations for outdoor wood boilers.**
- C. Significant emissions from outdoor wood boilers can have very negative effects or potential effects on the personal health and enjoyment of property of residents.**
- D. It is the intent of this chapter to serve the Town’s compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of Dexter by regulating outdoor wood boilers within its borders.**
- E. Authority for this Ordinance is found in Article 8, Part 2, §1 of the State of Maine Constitution, also known as the “Home Rule” provision, and the Dexter Town Charter.**

86-02. PERMIT REQUIRED. No person shall install, use, or maintain an outdoor wood boiler within the Town of Dexter without first having obtained a permit from the Code Enforcement Officer. Application for such permit shall be made to the Code Enforcement Officer on forms provided. The permit fee shall be \$50.00 and this fee may be adjusted by Council Order. Owners of outdoor wood boilers at the time this Ordinance takes effect shall be exempt from the permit fee, but will still be required to submit a permit application.

86-03. EXISTING OUTDOOR WOOD BOILERS. Any outdoor wood boiler in existence, installed, and operating/operable on the effective date of this ordinance shall be allowed to remain provided that the owner applies for and receives a permit from the Code Enforcement Officer within sixty (60) days of such effective date, provided, however, that upon the effective date of this ordinance all the provisions hereof, except for those found in Section 86-04, Paragraph B below, shall immediately apply to existing outdoor wood boilers. If the owner of an outdoor wood boiler does not receive a permit within sixty (60) days of the effective date of this ordinance, the owner shall immediately cease operations of the boiler until such time as the conditions for a permit are met. “Existing” or “in existence” means that the outdoor wood boiler is in place on site.

86-04. SPECIFIC REQUIREMENTS.

- A. Permitted Fuel.** Only seasoned firewood, fuel oil, kerosene, natural gas, pelletized fuel, corn or LP gas may be burned in an Outdoor Wood Boiler if the boiler is designed and certified for that fuel. But if wood is burned, only firewood and untreated lumber is permitted to be used in an outdoor wood boiler. Burning of any and all *other* materials in an outdoor wood boiler is expressly prohibited.
- B. Distance Requirement.** No outdoor wood boiler shall be installed less than 50 feet from a neighboring residence. On lots of three (3) or more acres, a property owner shall install a boiler no less than 100 feet from any lot line.

- C. Certification.** Any outdoor wood boiler located in Dexter shall be certified to Standard 391 of Underwriters Laboratories (UL) or equivalent ANSI, CSA or NSF Standard. The outdoor boiler shall be required to display a listing plate on the unit that certifies that the unit is in compliance with the appropriate emissions standard, as determined by a qualified testing facility using appropriate and applicable Underwriter Laboratories (UL), ANSI, CSA, or NSF Standard.
- D. Stack Height.** The stack height of an outdoor wood boiler will be at least 24 inches above the roofline of the closest neighbor's residence abutting the property where the boiler is installed if the neighbor's residence is within 300' of the boiler installation site. On lots of three (3) or more acres, a property owner shall install a stack of no less than twelve (12) feet high.
- E. Months of Operation.** Outdoor wood boilers may be operated only between October 1 and May 1 of each year except on rural lots of ten acres or more. Between May 1 and October 1, Outdoor furnaces not located on rural lots of ten acres or more may burn only propane, kerosene, or oil if the system is designed and certified for it.
- F. Replacements.** If an outdoor wood boiler is replaced or upgraded, a permit shall be required pursuant to Section 86-04 above and shall comply with all Sections of this ordinance.

86-05. SUSPENSION OF PERMIT. A permit issued pursuant to this ordinance may be suspended, as the Code Enforcement Officer deems necessary to protect the public health, safety, and welfare of the residents of the Town of Dexter. Grounds for suspension of the permit shall include, but not be limited to, malodorous air contaminants caused by the burning of non-permitted materials in the outdoor wood boiler or by the operation of the outdoor wood boiler that are detectable on the property of neighbors of the person on whose land the boiler is located. A suspended permit may be reinstated once the condition that caused the suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition, which has previously resulted in suspension of a permit, shall be considered a violation of this chapter and be subject to the penalties provided in Section 86-07 below.

86-06. APPEALS AND WAIVERS.

- A. Appeals.** An outdoor wood boiler owner may appeal, in writing, the Code Enforcement Officer's denial or suspension of a permit to the Dexter Board of Appeals. The Dexter Board of Appeals will consider such appeals in open session under its guidelines and bylaws. If the decision of the Code Enforcement Officer is upheld, the suspension of the permit will continue until such time as the boiler is brought into compliance with this chapter or discontinued from use. During the appeal process, however, the outdoor wood boiler shall not be used in order to protect the health, safety, and welfare of the neighborhood.
- B. Waivers.** The Dexter Board of Appeals shall have the authority to grant waivers under this chapter due to extraordinary and undue hardship, upon written request of an affected property owner to the Board of Appeals. The Board of Appeals shall consider the waiver request in open session under the guidelines and bylaws of the Dexter Board of Appeals.

Any waiver granted shall not have the effect of nullifying the intent and purposes of this chapter and the Board of Appeals may impose such conditions and requirements, as it deems reasonable and prudent. If the Board of Appeals denies the waiver request, the outdoor wood boiler in question must be brought into full compliance with this chapter or its use be discontinued immediately.

86-07. PENALTIES. Violations of this chapter shall be deemed a civil infraction and violators may be summonsed by the Code Enforcement Officer to Maine District Court or other court of competent jurisdiction. The owner of an offending outdoor wood boiler shall be assessed a penalty of \$100.00 and each day the violation continues may be considered as a separate offense. The maximum accumulated penalty for such offenses shall not exceed \$1,000.00. For a third or subsequent violation, the property owner's permit shall be revoked in addition to any monetary penalty. The owner shall not be eligible for another permit. Should the services of the Town Attorney be required, however, the Town shall also be eligible to receive reasonable legal fees in addition to any penalties imposed under this section.

86-08. DEFINITIONS. The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them hereunder, except where the context clearly indicates a different meaning:

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

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

UNTREATED LUMBER means dry wood that has been milled and dried, but has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint, or other substance. It may not contain nails, screws, or other similar attachments that, when burned, could create a threat to public health, safety, or welfare.

86-09. SEVERABILITY. Should any section, sub-section, paragraph, or other provision of this chapter be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the chapter as a whole, or of any part thereof, other than the part held to be invalid.

- ❖ Read on February 22, 2007 by the Planning Board
- ❖ Went to Public Hearing on March 22, 2007
- ❖ Passed on to the Council March 22, 2007

❖ Council voted to hold public hearing April 12, 2007
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