# SUBDIVISION REGULATIONS

# TOWN OF PORTER, MAINE

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## ARTICLE 1 – PURPOSES AND STATUTORY REVIEW CRITERIA

The purposes of these regulations are:

**1.1** To provide for an expeditious and efficient process for the review of proposed subdivisions;

**1.2** Statutory Review Criteria: When reviewing any application for a subdivision, as defined by Article 3, the Review Authority shall find that the following criteria as found in Title *30-A M.R.S.A. §4404* have been met, as well as all applicable provisions of the Town of Porter Land Use Ordinance and other sections of this Regulation have been met, before granting approval.

**1.3** To assure new development in the Town of Porter meets the goals and conforms to the policies of the approved Porter Comprehensive Plan;

**1.4** To assure the comfort, convenience, safety, health and welfare of the people of the Town of Porter;

**1.5** To protect the environment and conserve the natural and cultural resources identified in the Porter Comprehensive Plan as important to the community;

**1.6** To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;

**1.7** To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and

**1.8** To promote the development of an economically sound and stable community.

**1.9** To provide Performance Standards and Design Guidelines for subdivisions and other road construction activities, regardless of exemptions from the Planning Board Subdivision regulatory review process.

# ARTICLE 2 - AUTHORITY AND ADMINISTRATION

## 2.1 Authority.

A. These standards have been prepared in accordance with the provisions of *Title 30-A M.R.S.A., §4403*.

B. These standards shall be known and may be cited as "Subdivision Regulations of the Town of Porter, Maine."

## 2.2 Administration.

A. The Planning Board of the Town of Porter, hereinafter called the Board, and the Authority having jurisdiction shall administer these regulations, as applicable.

B. The provisions of these regulations shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Porter.

C. When a land use is not legally a subdivision, only those definitions, road standards, and performance/design standards that are expressly incorporated by reference in the Town of Porter Land Use Ordinance apply.

## 2.3 Amendments.

A. These regulations may be amended by the Planning Board if the Legislative Body has not adopted or amended the standards.

B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven (7) days in advance of the hearing.

## ARTICLE 3 - DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, any word or term defined in the Porter Land Use Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

**100-Year Flood:** The highest level of flood that, on the average, has a one percent (1%) chance of occurring in any given year.

**Access.** A public or private point of entry or exit from land adjacent to a public highway used by motor vehicles as defined in Title 29-A, Chapter 1, Section 101. The specific point may be described as an entrance, street or a driveway depending upon the land use and volume of traffic generated by that use. An access may be a driveway or an entrance depending upon the type of land use and volume of traffic generated by that use.

**Affirmatively Furthering:** Reference the definition section in the Town of Porter Land Use Ordinance.

**Affordable housing/Affordable housing development.** Means a decent, safe, and sanitary dwelling as follows:

1. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs; and
2. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units that the developer designates as affordable without spending more than 30% of the household's monthly income on housing costs.
3. For purposes of this definition, “majority” means more than half.
4. For purposes of this definition, “housing costs” means:

   a) For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and

   b) For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner’s insurance, condominium fees, and homeowners’ association fees.

**Applicant:** The person applying for subdivision approval under local regulations and ordinances.

**Average Daily Traffic (ADT):** The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

**Buffer Area:** A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (*e.g. noise, dust, visibility, glare, fire safety, access to sunlight, stormwater control, water infiltration, parking capacity, etc.*) on adjacent properties or on sensitive natural resources.

**Building:** See the definitions for Building or structure in the Town of Porter Land Use Ordinance.

**Capital Improvements Program (CIP):** The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

**Capital Investment Plan:** The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

**Character:** Reference the definition section in the Town of Porter Land Use Ordinance.

**Certified Soil Scientist:** As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.

**Common Open Space:** Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by local regulations and ordinances, or by a vote by the Board to waive the submission of required information. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

**Complete Substantial Construction:** The completion of a portion of the improvements which represents no less than **thirty percent (30%)** of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements; Substantial Start (See Land Use Ordinance).

**Comprehensive Plan:** "Comprehensive plan" means a document or interrelated documents adopted by the legislative body, containing elements established under 30-A M.R.S. § 4326 §§ (1)-(4), including the strategies for an implementation program which are consistent with the goals and guidelines established pursuant to Title 30-A, Chapter 187, Subchapter II.

**Conservation Easement:** A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

**Cul-de-sac:** A street with only one outlet and having the other end for the reversal of traffic movement.

**Density:** The required maximum number of dwelling units per acre of land, that is proportionate to the scale of local resources, within the capacity and capability of the community, and complimentary to and at the growth pace of the overall long term comprehensive plan created by the community.

**Developed Area:** Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, driveways, and streets.

**Densely developed area.** A "Densely developed area" means any commercial, industrial or compact residential area of ten (10) or more acres with an existing density of at least one principal structure per two (2) acres

**Direct Watershed of a Great Pond:** That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the *comprehensive plan*. Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary, or as depicted in the drainage divide data layer provided by the *Maine Office of GIS*. Due to the scale of the map, there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

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

**Farmland**: "Farmland" means a parcel consisting of five (5) or more acres of land that is:

A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or

B. Used for the production of agricultural products as defined in *Title 7, section 152, subsection 2*. - "Agricultural products" means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products, manure and compost and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.

**Final Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the *Registry of Deeds*.

**Freshwater Wetland:** Reference the definition section in the Town of Porter Land Use Ordinance.

**Great Pond:** Reference the definition section in the Town of Porter Land Use Ordinance.

**High Intensity Soil Survey:** A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the *National Cooperative Soil Survey*. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal highwater table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall NOT be considered to constitute high intensity soil surveys.

**High Water Mark (*Inland Waters*):** That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water mark is the upland edge of the wetland, and not the edge of the open water.

**Housing:** "Housing" means any work or undertaking to demolish, clear or remove buildings from any slum area and provide decent, safe and sanitary dwellings, apartments or other living accommodations for persons of low income. A project may include dwellings, apartments or accommodations occupied by persons other than persons of low income, provided that in the opinion of the responsible authority, a reasonable number of the dwellings, apartments or accommodations in the project are reserved for occupancy by persons of low income. The work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances including private commercial activity compatible with residential use as determined by an authority

**Industrial or Commercial Street:** Streets servicing industrial or commercial uses.

**Level of Service:** A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, 2010 edition or most current addition at the time the application is submitted, published by the National Academy of Sciences, Transportation Research Board. There are six (6) levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

**Major Residential Street:** A street servicing only residential properties and which is not a collector but has an average daily traffic of more than *200 vehicles per day*.

**Minor Residential Street:** A street servicing only residential properties and which has an average daily traffic of less than *200 vehicles per day.*

**Multifamily Development/Dwelling**: A building or parcel 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. The term "subdivision" includes the division of a new structure or structures on a tract or parcel of land into five (5) or more dwelling units within a 5-year period, the construction or placement of five (5) or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into five (5) or more dwelling units within a 5-year period.

**Net Residential Acreage:** The total acreage available, minus the area for streets or access and the areas that are unsuitable and inappropriate for development as outlined in Article 10, that protect the environment and also protect and ensure access to direct sunlight.

**Net Residential Density:** The average number of dwelling units per net residential acre, that is proportionate to the scale of local resources, within the capacity and capability of the community, and complimentary to and at the growth pace of the overall long term comprehensive plan created by the community.

**New Structure or Structures:** Includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

**Planning Board:** The Planning Board of the Town of Porter.

**Preliminary Plan:** The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

**Private Right-of-Way:** A minor residential street servicing more than two dwelling units as proposed, which is not intended to be dedicated as a public way.

**Professional Engineer:** A professional engineer, registered in the State of Maine.

**Professional Land Surveyor:** As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.

**Public Water System:** A water supply system that provides water to at least fifteen (15) service connections or services water to at least twenty-five (25) individuals daily for at least thirty (30) days a year.

**Recording Plan:** An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

**Restrictive Covenant**: "Restrictive covenant" means a provision in a deed restricting the use of the land.

**Reviewing Authority**: Reference the definition section in the Town of Porter Land Use Ordinance.

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

**Sight Distance** The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

**Sketch Plan:** Conceptual maps, renderings, and supportive data describing the project proposed by the applicant to present general information regarding the proposed subdivision to the municipality and receive the Board's comments prior to the expenditure of substantial sums of money on clearcutting, grubbing, earthwork, surveying, soils identification, and engineering by the applicant. The Sketch Plan is to be submitted for initial review prior to submitting a preliminary plan application for subdivision approval.

**Street:** Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways over which the public has easement of travel, provides frontage to a lot, and meets the Town of Porter Subdivision review standards. If legally nonconforming, it must be recorded on a plan of a subdivision at the Registry of Deeds; traveled way.

**Street Classification:**

> **Arterial Street:** A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadway(s) shall be considered arterial streets: *Route 25 (Ossipee Trail)*
>
> **Collector Street:** A street that collects traffic from residential streets and feeds it to arterials. The following roadway(s) shall be considered collector streets: *Route 160 (Brownfield Road)*

**Subdivision:** The division of a tract or parcel of land into three (3) or more lots within any 5-year period, that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into five (5) or more dwelling units within a 5-year period, the construction or placement of five (5) or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into five (5) or more dwelling units within a 5-year period.

> A. In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of the tract or parcel is considered to create the first two (2) lots and the next dividing of either of these first two (2) lots, by whomever accomplished, is considered to create a third lot, unless:

1. Both dividing's are accomplished by a subdivider who has retained one (1) of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least five (5) years immediately preceding the 2nd division; or
2. The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of forty (40) or more acres must be counted as a lot.

D-1. A division accomplished by *devise* does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter or avoid other applicable municipal requirements, including, but not limited to, road standards and safety.

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of five (5) years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor," means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph cannot be given for consideration that is more than half (½) the assessed value of the real estate.

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within five (5) years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

E. The division of a tract or parcel of land into three (3) or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a

subdivision of land.

G. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than July 1, 2027.

**H.** The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. A mortgage, pledge or other instrument of hypothecation against a dwelling unit or other smaller portion of real property within a parcel that is otherwise defined by this section as a lot does not itself constitute a subdivision for purposes of this section.

I. Unless the intent of a transferor is to avoid the objectives of this subchapter, the division of a tract or parcel of land accomplished by the transfer of any interest in the land to a holder does not create a lot or lots for purposes of this definition if:

(1) The transferred interest, as expressed by conservation easement, binding agreement, declaration of trust or otherwise, is to be permanently held for one or more of the following conservation purposes:

(a) Retaining or protecting the natural, scenic or open space values of the land;

(b) Ensuring the availability of the land for agricultural, forest, recreational or open space use;

(c) Protecting natural resources; or

(d) Maintaining or enhancing air quality or water quality; and

(2) The transferred interest is not subsequently further divided or transferred except to another holder.

As used in this paragraph, "holder" has the same meaning as in Title 33, section 476, subsection 2.

**Subsurface Waste Water Disposal System:** Reference the definition section in the Town of Porter Land Use Ordinance.

**Tract or Parcel of Land:** "Tract or parcel of land" means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

**Usable Open Space:** That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding ten percent (10%).

## ARTICLE 4 - ADMINISTRATIVE PROCEDURE

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than seven (7) days in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal office. No application may be considered at a Planning Board meeting unless it has been submitted by the third Tuesday of the month. If filed by the third Tuesday of the month, it will be reviewed by the CEO and shall be placed on the Planning Board agenda in the following month.

Applicants who attend a meeting but who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes. However, the Board shall take no action on any application not appearing on the Board's written agenda.

# ARTICLE 5 - SKETCH PLAN MEETING AND ON-SITE INSPECTION

**5.1 Purpose.**

The purpose of the sketch-plan meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to site alteration undertaken in anticipation of subdivision.

Site alteration undertaken in anticipation of subdivision includes, but is not limited to: removing the property from Tree Growth for the proposed subdivision (if applicable) and, expenditure of substantial sums of money on clearcutting, grubbing, earthwork *surveying, soils identification, and engineering* by the applicant, and to discourage the intentional damage or destruction of property of a seller with the intent to obtain agreements or contracts.

**5.2 Procedure.**

A. The applicant shall present the Pre-application Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.

B. Following the applicant's presentation, the Board may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated by the applicant into the application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests shall be postponed until the subsequent review of the full application.

C. The date of the on-site inspection is selected.

**5.3 Sketch-Plan Submission.**

The Pre-application Sketch Plan shall show in simple sketch form the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the applicant and the Board for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's map(s) on which the land is located. The Sketch Plan shall be accompanied by:

A. A sketch plan application form, three (3) copies of the sketch plan and all supporting materials, and a *sketch plan application fee of (See Town of Porter Fee Schedule), must* be submitted by the third Tuesday of the month preceding a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda the following month;

A.1 The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a freehand penciled sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner.

B. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision,

C. A copy of that portion of the *county soil survey* covering the proposed subdivision, showing the outline of the proposed subdivision, and

D. The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained.

E. The applicant is to provide all State MFS Forest Operations Notifications and Maine DEP General Construction Permits within the last (5) years to the Planning Board, specific to the parcel(s) intended for subdivision, prior to performing timber harvesting and site clearing, grubbing, and earthwork for the intended use.

**5.4 Contour Interval and On-Site Inspection.**

A. Within thirty (30) days of the pre-application meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan. The Board shall not conduct on-site inspections during the months of December, January, February or March.

B. The applicant shall place "flagging" at the centerline of any proposed streets, at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. In the event the subdivision was not properly flagged and the inspection has to be re-scheduled once the flagging is installed per this section, **THE APPLICANT WILL BE RESPONSIBLE** to pay for all costs associated with the administration of the On-Site Inspection.

**5.5 Rights not Vested.**

The sketch plan meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of *Title 1 M.R.S.A., §302*.

**5.6 Establishment of File.**

Following the sketch plan meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the pre-application meeting and application shall be maintained in the file.

# ARTICLE 6 - PRELIMINARY PLAN FOR SUBDIVISION

**6.1 Procedure.**

A. Within six (6) months after the on-site inspection by the Board, the applicant shall submit an application for approval of a preliminary plan by the first day of the month prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Code Enforcement Officer and the Board in care of the municipal offices or delivered by hand to the municipal offices. Failure to submit an application within six (6) months shall require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

B. All applications for preliminary plan approval for a Subdivision shall be accompanied by fees in accordance with the Town of Porter Fee Schedule.

C. (FUTURE)

D. The applicant, or an applicant's representative who is qualified to answer questions, shall attend the meeting of the Board to present the preliminary plan application. Failure to attend the meeting intended to present the preliminary plan application and to effectively and competently answer questions shall result in a delay of the Board's receipt of the plan until the next meeting that the applicant attends.

E. Within three (3) days of the meeting at which an application for preliminary plan approval of a subdivision is initially presented, the Board shall:

1. Issue a dated receipt to the applicant.

2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.

3. Notify the clerk and the review authority of the *neighboring municipalities if:*

*a. Any portion of a subdivision abuts or crosses the municipal boundary*,
*b*. Any subdivision is in the watershed of a neighboring municipality's public water supply or the watershed of a great pond/waterbody subject to phosphorus control provisions, or
*c*. Any subdivision is accessed by a local road leading from an adjacent municipality at risk of impact.

F. Within thirty (30) days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

G. Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of its determination and schedule a public hearing on the preliminary plan application.

H. The Board shall hold the public hearing within thirty (30) days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. A copy of this notice shall also be

mailed to the applicant and the abutters.

I. Within thirty (30) days from the public hearing, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

J. When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:

1. The specific changes which it will require in the final plan;

2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and

3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.

K. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations, the conditions of preliminary approval, if any, and the Town of Porter Land Use Ordinance. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

**6.2 Submissions.**

The preliminary plan application shall consist of the following items.

A. Application Form and Proof of Payment of Fees.

B. Location Map. The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:

1. Existing subdivisions in the proximity of the proposed subdivision.

2. Locations and names of existing and proposed streets.

3. Boundaries and designations of zoning districts.

4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding. *Reference Article 10 Section 10.1 subsection 2 (Lots).*

C. Preliminary Plan. The preliminary plan(s) shall be submitted in three (3) copies of all drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than one hundred feet to the inch (1 inch = 100 feet). Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred feet to the inch (1 inch = 200 feet), provided all necessary detail can easily be read. In addition, two (2) copies of the preliminary plan reduced

to a size of 8.5x11 inches or 11x17 inches with all accompanying information such that one (1) shall be mailed to the Code Enforcement Officer and one (1) to the Planning Board no less than ten (10) days prior to the meeting.

D. Application Requirements. The application for preliminary plan approval shall include the following information.

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.

2. Verification of right, title or interest in the property.

3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by permanent granite monuments.

4. A copy of the most recently recorded deed for the parcel and copies of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.

5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.

6. An indication of the type of sewage disposal to be used in the subdivision.

   a. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses and appropriate HHE-200 design concepts are to be prepared by a Site Evaluator or Certified Soil Scientist licensed and certified in the State of Maine shall be provided.

   b. A plan showing the location of all test pits dug on the site, scaled location(s) of proposed sewage disposal systems (including dry wells future for water treatment disposal, if not designed into the HHE-200), proposed building footprint(s), and existing septic systems within 300 feet of the property boundaries shall be submitted, for LPI review and comment during the subdivision application processes.

   c. When public sewer is to be utilized a written statement from the sewer utility provider servicing the area shall be submitted indicating there is adequate capacity for the subdivision.

7. An indication of the type of water supply system(s) to be used in the subdivision.

   a. When water is to be supplied by public water supply, a written statement from the water utility provider servicing the area shall be submitted indicating there is adequate supply and pressure for the subdivision. If public water infrastructure is to be extended, engineered drawings indicating specifications and limits of work is to be submitted with the application.

   b. A plan showing the location of all existing and proposed underground waterlines to service the proposed subdivision, proposed sewage disposal systems (including dry wells for future water treatment disposal if not designed into the HHE-200), proposed building footprints(s), and existing wells or public services within 300 feet beyond the property boundaries, to assure that separation requirements established in Maine Subsurface Wastewater Disposal Rules can reasonably be met, for LPI review and comment during the subdivision application process.

c. When water is to be supplied by private wells, a plan is to be provided indicating that proper separation in accordance with Maine Subsurface Wastewater Disposal Rules can be achieved, between waterlines, wells, and septic system elements (including dry wells for future water treatment disposal, if not designed into the HHE-200), based on the subdivision lot and dwelling densities proposed, for LPI review and comment during the subdivision application process.

8. The date the plan was prepared, north point, and graphic map scale.

9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.

10. A high intensity soil survey by a Certified Soil Scientist certified in the State of Maine.

    a. Wetland areas shall be identified on the survey, regardless of size.

11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features.

12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.

13. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.

14. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.

15. The location and size of existing and proposed water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

16. The location, names, and present widths of existing streets, driveways, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.

17. The width and location of any streets, driveways, public improvements or open space shown upon the comprehensive plan, if any, within the subdivision.

18. The proposed lot lines with approximate dimensions and lot areas in accordance with Article 10 Section 10.1 subsection 2 of this regulation and the dimensional, buffering, and screening requirements of the Porter Land Use Ordinance.

19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. 20. The location of any open space to be preserved and a description of proposed ownership, improvement and how it is to be managed.

21. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation. The applicant is to provide all State Forest Operations Notifications, Maine DEP General Construction Permits, and Tree Growth Management status within the last (5) years to the Planning Board, specific to the parcel(s) intended for subdivision.

22. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard

areas and the 100-year flood elevation, as depicted on the municipality's *Flood Insurance Rate Map*, shall be delineated on the plan.

23. For subdivisions not served by a public sewer, a hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology who are certified and registered in the State of Maine, when:

    a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled *"Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1998, Map No. 98-195 & 98-197*; or

    b. Any part of the subdivision located over riparian habitats shown on *Beginning With Habitat Map ''Riparian Habitats''*; or

    c. The proposed subdivision has an average allowance of more than one dwelling unit per one hundred thousand (100,000) square feet.

    d. The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or proposed developments in which the average allowable density is less than one dwelling unit per one-hundred thousand (100,000) square feet but the density of the developed portion is in excess of one dwelling unit per eighty-eight thousand (88,000) square feet; or the proposed use of shared or common subsurface waste water disposal systems.

    The hydrogeologic assessment shall be conducted in accordance with the provisions of *Article 10* below.

24. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours based on the allowable housing density allowances in the proposed subdivision. Trip generation rates used shall be taken from *Trip Generation Manual,* the most recent edition at the time the application was submitted, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.

25. For subdivisions involving twenty (20) or more parking spaces, projected to generate more than two hundred (200) vehicle trips per day, or, if located more than 1,000 feet or more from a State arterial or collector highway and are projected to generate more than fifty (50) vehicle trips per day, a traffic impact analysis, prepared by a Professional Engineer registered in the State of Maine with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips based on the allowable lot and housing density in the proposed subdivision, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

26. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the *Maine Department of Inland Fisheries and Wildlife*, or within the *comprehensive plan*, or areas within plant and animal habitats shown on *Beginning With Habitat Map ''Plant and Animal Habitats''*. If any portion of the subdivision is located within an area designated as a unique natural area by the *comprehensive plan* or the *Maine*

*Natural Areas Program*, or within plant and animal habitats shown on *Beginning With Habitat Map ''Plant and Animal Habitats''*, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

27. If the proposed subdivision is in the direct watershed of a great pond, and qualifies for the simplified review procedure for phosphorus control, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems and the application shall also include a long-term maintenance plan for all phosphorus control measures.

28. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the *National Register of Historic Places*, or have been identified in the comprehensive plan as historically notable, sensitive, or likely to contain such sites.

29. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.

30. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of *Title 30-A M.R.S.A., §4404* are met.

## ARTICLE 7 - FINAL PLAN FOR SUBDIVISION

### 7.1 Procedure.

A. Within six (6) months after the approval of the preliminary plan, the applicant shall submit an application for approval of the final plan to the Code Enforcement Officer by the first day of the month prior to a scheduled meeting of the Board. Applications shall also be submitted by mail to the Board in care of the municipal offices or delivered by hand to the municipal offices. If the application for the final plan is not submitted within six (6) months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board.

If an applicant cannot submit the final plan within six (6) months, due to delays caused by other regulatory bodies, or other extenuating circumstances, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension, the Board shall make findings that the applicant has made *due progress* and exhibited good faith in the preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.

B. All applications for final plan approval for a subdivision shall be accompanied by an application fee of: (*See the Town of Porter Fee Schedule*) to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

C. Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:

1. **Maine Department of Environmental Protection**:

a.) Under the **Site Location of Development Act**; and

b.) Under the **Natural Resources Protection Act** or if a storm water management permit or a waste water discharge license is needed.

2. **Maine Forest Service.**

3. **Maine Department of Human Services**, if the applicant proposes to provide a public water system.

4. **Maine Department of Human Services**, if an engineered subsurface waste water disposal system(s) is to be utilized, or if the system (engineered or non-engineered) is designed to accommodate water treatment.

5. **U.S. Army Corps of Engineers**, if a permit under ***Section 404 of the Clean Water Act*** is required.

6. **Maine Department of Transportation**, for introducing new roadways, roadway signage, street lighting, or impacting, altering, or connecting to existing roadways controlled or managed by the Maine DOT.

7. **Town of Porter** – Confirmation that the fees required for final plan approval (*e.g. - Section 7.1B fees have been received*), unless waived through *Article 12 Section 12.3*

8. If any portion of the property is within one **thousand (1000) feet** of the Ossipee River floodplain, or **five hundred (500) feet** of the Ossipee River outside of the floodplain, notification to and approval by the Saco River Corridor Commission is recommended. *(Go to http://srcc-maine.org/regulations/forms/ )*

   *If any portion of the proposed subdivisions is in Zones A or AE floodplain, Flood Hazard Development Permit Applications in accordance with the Floodplain Management Ordinance of the Town of Porter, must be included.*

9. ***Maine Historic Preservation Commission*** and/or *Parsonsfield-Porter Historical Society* - If the preliminary plan identified any areas, in accordance with *Section 6.2.D.28*, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the *Maine Historic Preservation Commission* or the *Parsonsfield Porter Historical Society* prior to submitting the final plan application.

D. The applicant, or an applicant's duly authorized representative who is qualified to answer questions, shall attend the meeting of the Board to discuss the final plan. Failure to attend the meeting intended to present the final plan application and to effectively and competently answer questions shall result in a delay of the Board's receipt of the plan until the next meeting which the applicant attends.

E. At the meeting at which an application for final plan approval of a subdivision is initially presented; the Board shall issue a dated receipt to the applicant.

F. Within thirty (30) days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

G. Upon determination that a complete application has been submitted for review; the Board shall issue a dated receipt to the applicant. The Board shall determine whether to hold a public hearing on the final plan application of subdivisions. A public hearing for the final plan of subdivisions cannot be waived.

H. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two (2) times, the date of the first publication to be at least seven (7) days before the hearing. In addition, the notice of the hearing shall be posted in at least three (3) prominent places within the municipality at least seven (7) days prior to the hearing.

I. The Board shall notify the road commissioner, municipal officers, school superintendent, police chief, and fire chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.

J. Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in *Article 11.*

K. Within thirty (30) days from the public hearing or within sixty (60) days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in *Title 30-A M.R.S.A., §4404* and the standards of these regulations, or the Town of Porter Land Use Ordinance. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute, the standards of these regulations, or the Town of Porter Land Use Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

L The municipal reviewing authority may not accept or approve final plans or final documents prepared within the meaning and intent of *Title 32, chapter 141* that are not sealed and signed by the professional land surveyor licensed in the State of Maine under whose responsible charge they were completed, as provided in *Title 32, section 18226*.

**7.2 Submissions.**

1. Scale, borders, size, copies, and reproductions.

a. The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch (1''=100 feet). Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred feet to the inch (1''=200 feet) provided all necessary detail can easily be read.

b. Plans shall be no larger than 24x36 inches in size, and shall have a margin of two (2) inches outside of the border line on the left side for binding and a one (1) inch margin outside the border along the remaining sides.

c. Space shall be reserved on the plan for endorsement by the Board.

d. The applicant shall submit one (1) 11''x17'' 20# white paper original of the final plan to be recorded at the Registry of Deeds by the applicant, one (1) recording plan to be filed at the municipal office, three (3) copies of the final plan, and two (2) copies of the final plan reduced to a size of 8.5x11 inches or 11x17 inches with all accompanying information such that one (1) shall be mailed to the Code Enforcement Officer and one (1) to the Planning Board no less than ten (10) days prior to the meeting.

2. The final plan shall include or be accompanied by the following information:

A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.

B. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features in accordance with the requirements of Article 10 of this regulation and the dimensional, buffering, and screening requirements of the Town of Porter Land Use Ordinance.

C. An indication of the type of sewage disposal to be used in the subdivision, approximate scaled location(s) in plan, the number of anticipated septic systems (*including dry wells for future water treatment disposal, if not designed into the HHE-200*), and evidence that sewage disposal systems and private or common water supplies can meet Maine Subsurface Wastewater Disposal Rules setbacks/buffers, based on proposed subdivision lot density, for LPI review and comment during the subdivision application processes.

D. An indication of the type of water supply system(s) to be used in the subdivision, the number of anticipated wells, approximate location(s) in plan, and evidence that sewage disposal systems and private or common water supplies can meet Maine Subsurface Wastewater Disposal Rules setbacks/buffers (*including dry wells for future water treatment disposal, if not designed into the HHE-200*), based on proposed subdivision lot density, for LPI review and comment during the subdivision application processes.

1. When water is to be supplied by an existing public water supply, a written statement from the water utility provider servicing the area shall be submitted indicating the company has reviewed and approved the water system design. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.

2. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area, and who is certified and registered in the State of Maine

E. The date the plan was prepared, north point, graphic map scale.

F. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.

G. The location of any zoning boundaries affecting the subdivision.

H. Proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision in accordance with the requirements of Article 6 and 10 of this regulation and the dimensional, buffering, and screening requirements of the Town of Porter Land Use Ordinance are to be included on the final plan/plat.

I. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

J. **Plan elements and Maine Surveyor Seal.**

1. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a land surveyor registered in the State of Maine.

2. On existing and proposed streets, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 (fifty) feet, in accordance with the *Town of Porter Addressing Ordinance and State of Maine Emergency Services Bureau guidelines*, to aid in assignment of numbers to structures subsequently constructed.

3. The original reproducible plan shall be embossed with the seal of the State of Maine registered land surveyor and be signed by that individual.

K. Street plans, meeting the requirements of *Article 10*.

L. A storm water management plan, prepared by a registered professional engineer in accordance with the *Maine's Stormwater Best Management Practices Manual (2016) or the current revision at the time the application is submitted* and reviewed by the Oxford County Soil and Water Conservation District. The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces including, but not limited to, roofs, driveways, and streets are less than 5% of the area of the subdivision.

M. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control: Best Management Practices (BMPs) – Manual for Designers and Engineers*, October 2016 revision or current revision at the time of application submission and reviewed by the Oxford County Soil and Water Conservation District. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces including, but not limited to, roofs, driveways, and streets are less than **5%** of the area of the subdivision.

N. The width and location of any streets or public improvements or open space shown upon the comprehensive plan, if any, within the subdivision.

O. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted.

P. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.

*If any portion of the proposed subdivisions is in zones A or AE floodplain, Flood Hazard Development Permit Applications in accordance with the Floodplain Management Ordinance of the Town of Porter, must be included.*

Q. If any portion of the proposed subdivision is in the direct watershed of a great pond, and does not qualify for the simplified review procedure for phosphorus control under *Article 10*, the following shall be submitted or indicated on the plan.

1. A phosphorus impact analysis and control plan conducted using the procedures set forth in *Volume 2 of the Maine Stormwater BMP Manual (Reference - https://www.maine.gov/dep/land/stormwater/stormwaterbmps/index.html)*The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the *Technical Guide*.
2. A long-term maintenance plan for all phosphorus control measures.
3. The contour lines shown on the plan shall be at an interval of no less than five (5) feet.
4. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

R. A list of construction items, with cost estimates, that will be completed by the applicant prior to the sale of lots, evidence that the applicant has financial commitments or resources to cover these costs, a project schedule from mobilization, construction, through completion of the development prior to the sale of the lots, a list of prior subdivisions completed by the applicant,*, a list of violations of previous approvals granted to the applicant (including liquidation harvesting of lots with the express intended interest in subdividing),* and written documentation of the training and experience of the applicant's consultants and contractors.

S. A list of construction and maintenance items, with both capital and annual operating cost estimates that will add to costs that are financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:

- Schools, including busing
- Street maintenance and snow removal
- Police and fire protection
- Solid waste disposal
- Recreation facilities
- Storm water drainage
- Waste water treatment
- Water supply
- The applicant shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.

T. The location and method of disposal for land clearing and construction debris.

U. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.

V. A Land Use Permit that has been approved or approved with conditions by the Porter Planning Board that meets all applicable performance standards or design criteria within the Porter Land Use Ordinance including but not limited to: *Article II (Non-Conforming Situations), Article III (District & Dimensional Requirements), and Article IV (Performance Standards – General Requirements), and Article V (Specific Use) of the Land Use Ordinance*.

Examples: *Frontage, setbacks, acreage, access*, parking, signage, light, glare, noise, dust, fumes, gases, explosive material, landscape buffering & screening, vegetation removal and revegetation within Shoreland, etc.*

**Roads shall have carrying capacity/Public road improvements required.*
*The road to which a driveway, street, or private way connects and the roads which are expected to carry traffic to the use served by the driveway shall have traffic carrying capacity and suitable to accommodate the amounts and types of traffic generated by the proposed use. Comply with the Performance and Design Standards of the Town of Porter Subdivision Regulation Article 10 Section 10.15. Where specified, to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, engineered provisions shall be made for turning lanes, traffic directional islands, frontage roads, and traffic controls within the public roads.*

*a.) Access to a proposed land use that exceeds 50 passenger car equivalent trips and that is not located within 1,000 feet of, or directly entering a State owned arterial or collector road is defined as a High Impact Use in this Ordinance and will require annual re-permitting and annual traffic impact analysis engineering to monitor impact. As a condition of approval, the applicant shall be required to make offsite road improvements to private or public ways or streets to accommodate traffic generated by the proposed land use. Such improvements may include, but not be limited to, traffic control, paving, grading, rolling, ditching, widening, and filling, and the provision of turnouts.*

**7.3 Final Approval and Filing.**

A. No plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved Plan within the municipality.

B. Upon findings of fact and determination that all standards in *Title 30-A M.R.S.A., §4404*, these regulations, and the Town of Porter Land Use Ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One (1) copy of the signed plan shall be retained by the Board as part of its permanent records. One (1) copy of the signed plan shall be forwarded to the tax assessor. One (1) copy of the signed plan shall be forwarded to the code enforcement officer. Any subdivision not recorded in the Registry of Deeds by the applicant within ninety (90) days of the date upon which the plan is approved and signed by the Board shall become null and void.

NOTE: The municipal reviewing authority may not accept or approve final plans or final documents prepared within the meaning and intent of *Title 32, chapter 141* that are not sealed and signed by

the professional land surveyor licensed in the State of Maine under whose responsible charge they were completed, as provided in *Title 32, section 18226*.

C. At the time the Board grants final plan approval, it may permit the Plan to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the plan to be divided into sections to prevent classroom overcrowding. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.

D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with *Article 9*. The Board shall make findings that the revised plan meets the criteria of *Title 30-A M.R.S.A., §4404*, the standards of these regulations, and the *Town of Porter Land Use Ordinance*. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the *Registry of Deeds*.

E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, driveway, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

F. Except in the case of a phased development plan, *failure to complete substantial construction of the subdivision within three (3) years of the date of approval and signing of the plan shall render the plan null and void.* Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

# ARTICLE 8 - REVISIONS TO APPROVED PLANS

**8.1 Procedure.**

An applicant for a revision to a previously approved plan shall, by the third Tuesday of the month prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

**8.2 Submissions.**

The applicant shall submit a copy of the approved plan as well as three (3) copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations, the criteria of the statute, and the *Town of Porter Land Use Ordinance*. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the *Registry of Deeds*.

**8.3 Scope of Review.**

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

8.4 **Public Hearings.**

Public hearings are not required for minor revisions to approved plans that do not create additional lots or dwelling units.

All monthly Planning Board Meetings are posted and public.

# Article 9 - INSPECTIONS AND ENFORCEMENT

**9.1 Inspection of Required Improvements.**

A. At least five (5) days prior to commencing construction of required improvements, the subdivider or builder shall:

1. Notify the code enforcement officer in writing of the time when the applicant proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

2. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.

B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspecting official shall so report in writing to the municipal officers, Board, and the subdivider and builder. The municipal officers shall take any steps necessary to assure compliance with the approved plans.

C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. *For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, the addition of dwelling units, creation of new lots, etc., the subdivider shall obtain permission from the Board to modify the plans in accordance with* Article 8.

D. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. *By October 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate.* The report shall also include a discussion and recommendations on any problems which were encountered.

E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Land Surveyor registered in the State of Maine, stating that all monumentation shown on the plan has been installed.

F. Upon completion of street construction, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations, the *Town of Porter Land Use Ordinance*, and State of Maine standards. If there are

any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.

G. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until control is placed with a lot owners' association.

**9.2 Violations and Enforcement.**

A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the *Registry of Deeds* until a final plan has been approved by the Board in accordance with these regulations.

B. A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the *Registry of Deeds*.

C. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.

D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.

E. Development of a subdivision without Board approval shall be a violation of law. Development includes, but is not limited to: grading or construction of roads, the clearing, grubbing, and grading of land or lots, or construction of buildings which require a plan approved as provided in these regulations and recorded in the *Registry of Deeds*.

F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts exist is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development exceeding three (3) dwellings shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

G. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of *Title 30-A M.R.S.A., §4452*.

# ARTICLE 10 - PERFORMANCE & DESIGN STANDARDS

The performance and design standards in this article are intended to clarify and expand upon the criteria for approval found within the subdivision statute (*Title 30-A M.R.S.A., §4404*). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following standards and make findings that each has been met prior to the approval of a final plan. Compliance with the regulations of this Article shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the regulations of this Article may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

## 10.1 Basic Subdivision Layout

**1. Blocks.**

Where street lengths exceed one thousand (1,000) feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least twenty (20) feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five (5) feet in width constructed in accordance with design standards in this article. Maintenance obligations of the easement shall be included in the written description of the easement.

**2. Lots.**

A. Wherever possible, side lot lines shall be perpendicular to the street.

B. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division or density increases shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval.

B.1 Deed restrictions and notes on the plan and in local planning board minutes shall indicate if the applicant intends to prohibit or allow a density of development or structure type(s) per lot*, or a prohibition of off-site pre-fabricated units*) and/or to establish land trust or easement conditions. Deed restrictions may be written in a manner such that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval.

C. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it *may* be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size, with written consent of the municipal assessors.

D. The ratio of lot length to width shall not be more than three to one (3:1). Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are *prohibited*.

E. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the *E-911 Addressing Officer* and the comments shall be considered by the Board.

F. WITHIN the Saco River Corridor (e.g. One thousand (1000) feet of floodplain, five hundred (500) feet of the Ossipee River), the proposed subdivision must meet SRCC regulatory standards, prior to local review and consideration.

G. A remaining portion of land created by an approved subdivision that is developed within five (5) years of subdivision approval must meet the performance and design standards of that subdivision. The property owner shall submit an application to be reviewed by the Planning Board in accordance with Article 8 (*Revisions to Approved Plans*).

H. Calculation of proposed building coverage and proposed impervious surface shall be submitted. In no event shall building coverage exceed 30% of the property area, nor shall impervious coverage exceed 60% of the property area, for the purpose of *protecting the environment and also protecting and ensuring access to direct sunlight*.

**3. Utilities.**

Utilities serving subdivisions shall be installed underground. Utilities serving lots with a street frontage of less than three hundred (300) feet shall also be installed underground.

**4. Monuments.**

A. Stone or precast concrete monuments.

1. Stone or precast concrete monuments shall be set at all street intersections and points of curvature, but no further than seven hundred fifty (750) feet apart along street lines without curves or intersections.

2. Stone or precast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is one hundred thirty-five degrees (135°) or less.

3. Stone or concrete monuments shall be a minimum of four inches (4'') square at the top and four (4) feet in length, and set in the ground at final grade level. After they are set, drill hole one half inch (1/2'') deep shall locate the point or points described above.

B. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the *Maine Board of Registration of Land Surveyors*.

## 10.2 Sufficient Water.

A. **Water Supply.**

1. When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants, shall be installed at the expense of the applicant in accordance with the rules of the Public Utilities Commission.

a. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the water utility provider servicing the area and the fire chief.

2. When a proposed subdivision is NOT to be served by a public water system, water supply shall be from individual wells or a private community water system.

   a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.

   b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules, the Well Drillers and Pump Installers Rules, and the Town of Porter Land Use Ordinance.

   c. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (*10-144A C.M.R. 231*).

B. **Water Quality.**

Water supplies (*public or private*) shall meet the primary drinking water standards contained in the *Maine Rules Relating to Drinking Water*.

1. If existing water quality contains contaminants in excess of the secondary drinking water standards in the *Maine Rules Relating to Drinking Water*, that fact shall be disclosed in a *note on the plan to be recorded in the Registry of Deeds.*

C. **Impact on Existing Water Supplies.**

In meeting the standards of *Article 10*, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of water utility available in the region beyond the capacity of the aquifer or public system components, considering improvements that are planned to be allowable in the subdivision. The applicant shall be responsible for paying the costs of system improvements to the company's system as necessary to alleviate existing deficiencies.

D. **Well Construction.**

1. Due to the increased chance of contamination from surface water, dug wells are not recommended on lots of smaller than 1.5 acres. Dug wells must consider future design for water treatment dry wells, to assure 100 foot minimum separation.

2. Wells shall not be constructed within one hundred (100) feet of the traveled way of any street, if located downhill from the street, within fifty (50) feet of the traveled way of any street, if located uphill of the street, or within one hundred (100) feet of a water treatment dry well. This restriction shall be included as a note on the plan and deed restriction to the effected lots.

E. **Fire Protection.**

1. Fire hydrants connected to a public water supply system shall be located no further than five hundred (500) feet from any building.

2. A minimum storage capacity of ten thousand (10,000) gallons shall be provided for a subdivision not served by a public water supply. Additional storage of two thousand (2,000) gallons per lot or principal building shall be provided. The Board may require additional storage capacity upon a recommendation from the fire chief. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three (3) feet of ice.

3. Hydrants or other provisions for drafting water shall be provided to the specifications of the fire department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six (6) inches.

4. Where the dry hydrant or other water source is not within the right-of-way of a proposed or existing street, an easement to the municipality shall be provided to allow access. A suitable accessway to the hydrant or other water source shall be constructed.

## 10.3 Erosion & Sedimentation and Impact on Water Bodies.

A. The proposed subdivision shall prevent soil erosion from entering waterbodies, wetlands, and adjacent properties.

B. Cutting or removal of vegetation along waterbodies shall not increase water temperature, result in shoreline erosion or sedimentation of waterbodies.

C. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

D. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

## 10.4 Sewage Disposal.

A. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the *State of Maine Subsurface Wastewater Disposal Rules*.

1 The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to provide a disposal area on soils which meet the disposal rules for the allowable proposed density per lot, or as specified and in deed covenants and plan notes.

2. On lots in which the limiting factor has been identified as being within twenty-four (24) inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be *shown on the plan and in deed as restricted* so as not to be built upon.

3. In NO instance shall a disposal area be on a site which requires a *New System Variance* from the *Subsurface Wastewater Disposal Rules*. This shall be shown as a deed restriction and on the plan.

4. HHE-200 Subsurface Wastewater Disposal System applications (including dry wells locations for water treatment, if not designed into the HHE-200) must be provided for each proposed lot or comparable public sewer system (including dry wells for water treatment disposal), and account for the allowable proposed density per lot, or as specified in deed covenants

and plan notes, for LPI review and comment during the application processes.

## 10.5 Solid Waste.

A. If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, and causes the municipal facility to no longer be in compliance with its license from the *Department of Environmental Protection*, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five (5) years.

## 10.6 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.

A. **Preservation of Natural Beauty and Aesthetics.**

1. The plan shall, by notes on the *final plan and deed restrictions*, limit the clearing of trees to those areas designated on the plan.

2. *The subdivision shall be designed to minimize the visibility of buildings from existing public roads*.

   Building location shall be restricted from open fields, and shall be located within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of building when viewed from existing public streets.

3. When a proposed subdivision street traverses open fields, the plan shall include the planting of street and individual lot line trees. Trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty (50) feet apart.

4. When a proposed subdivision contains a ridge line identified in the comprehensive plan as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within one-hundred fifty (150) feet vertical distance of the ridge top.

   a. These restrictions shall appear as notes on the plan and as covenants in the deed.

5. Cutting or removal of vegetation along waterbodies shall not increase water temperature, result in shoreline erosion or sedimentation of waterbodies.

6. The Board requires the application to include a landscape plan that will show the preservation of any existing trees larger than twenty-four (24) inches diameter breast height, the replacement of trees and vegetation, and graded contours.

7. A subdivision in which the land cover type at the time of a required preliminary plan application is forested, shall maintain a wooded buffer strip no less than fifty (50) feet in width along all existing public roads. The buffer may be broken only for driveways and streets. Land that is forested for the intent of subdivision development prior to filing a Preliminary Plan Application with the Town, an MFS Forest Operations Notification, and a MEDEP General Construction Permit may be in violation of this Regulation.

8. **Lands subject to liquidation harvesting.** Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to *Title 12 M.R.S.A, section 8869, subsection*

*14.* If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that five (5) years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. All State Forest Operations Notifications and Maine DEP General Permits filed within the last (5) years specific to the parcel(s) intended for subdivision, submitted by the applicant, will be reviewed by the Planning Board. A municipal reviewing authority may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to *Title 32 M.R.S.A, chapter 76*. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within five (5) working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within thirty (30) days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

**NOTE**: For the purposes of this subsection, "liquidation harvesting" has the same meaning as in *Title 12 M.R.S.A, section 8868, subsection 6* and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to *Title 12 M.R.S.A, section 8869, subsection 14.*

B. **Protection of Significant Wildlife Habitat.**

The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site-specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the *Maine Department of Inland Fisheries and Wildlife* or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions which include significant wildlife habitat or resources identified in this section and in *Section 10.13 subsection 2*.

1. If any portion of a proposed subdivision lies within two-hundred fifty (250) feet of the following areas identified and mapped by the *Department of Inland Fisheries and Wildlife*, the *comprehensive plan*, or *Beginning With Habitat* as:

a. **Protection of Habitat of Endangered or Threatened Species.**

1. Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space.

1. Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within two hundred fifty (250) feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.

b. **Protection of Waterfowl, and Wading Bird Habitat.**

1. There shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet inland from the normal high-water mark of the following habitat areas:

   a. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas; or

   b. Other important habitat areas identified in the comprehensive plan; or

   c. indicated on *Beginning With Habitat* riparian, plant, and animal habitat maps.

2. This restriction shall appear as a *note on the plan and as a deed restriction to the affected lots*.

2. **Protection of Deer Wintering Areas** - 1,320 feet of an area identified and mapped by the *Department of Inland Fisheries and Wildlife* or *Beginning With Habitat* as a high or moderate value deer wintering area or travel corridor. The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas

3. Other important habitat areas identified in the *comprehensive plan* and *Beginning With Habitat* mapping, including coastal wildlife concentration areas.

NOTE: The applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. A report prepared by a wildlife biologist certified by the Wildlife Society with demonstrated experience with the wildlife resource being impacted shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

4. If the proposed subdivision includes OTHER important wildlife habitat as identified by the *Department of Inland Fisheries and Wildlife*, the *comprehensive plan*, or *Beginning With Habitat* riparian, plant, and animal habitat maps, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.

C. **General Protection of Important Shoreland Areas and Public Access to Shorelines.**

1. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.

2. Except as in areas described in *Article 10.6 Section B, and Article 10.13 Section 2*, within all areas subject to the state mandated two hundred fifty (250) foot shoreland zone:

   a. Tree removal shall be limited to no more than forty percent (40%) of the volume of trees four (4) inches or more in diameter measured at four-foot six inches (4’-6’’) above the ground level on any lot in any ten (10) year period.

   b. Cleared openings for development, including but not limited to, principal and accessory structures, driveways, private ways and sewage disposal areas, shall not exceed in the aggregate, twenty-five percent (25%) of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed.

3. *These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots*.

## 10.7 Conformance with Zoning Ordinance and Other Land Use Ordinances.

*All lots shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the land use ordinance.*

Applicable performance standards or design criteria include, but are not limited to: *Article II (Non-Conforming Situations), Article III (District & Dimensional Requirements), and Article IV (Performance Standards – General Requirements) and Article V (Specific Use) of the Land Use Ordinance*. The Subdivision applicant will have to apply for a land use permit from the Town of Porter in addition to subdivision review.

Examples: *Frontage, setbacks, acreage, parking, signage, light, glare, noise, dust, fumes, gases, explosive material, landscape buffering & screening, vegetation removal and revegetation within Shoreland, etc.*

## 10.8 Financial and Technical Capacity.

A. **Financial Capacity.**

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute, the standards of these regulations, and the Town of Porter Land Use Ordinance. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

B. **Technical Ability.**

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.

2. In determining the applicant's technical ability, the Board shall consider the *applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of known violations of State law or regulation, local ordinances and regulations, or previous approvals granted to the applicant.*

## 10.9 Impact on Ground Water Quality or Quantity.

A. **Ground Water Quality.**

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:

   a. A map showing the basic soils types.

   b. The depth to the water table at representative points throughout the subdivision.

   c. Drainage conditions throughout the subdivision.

   d. Data on the existing ground water quality, either from test wells in the subdivision or from

existing wells on neighboring properties.

e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of one thousand (1,000) feet from potential contamination sources, whichever is a shortest distance.

f. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within two-hundred (200) feet of the subdivision boundaries.

2. Projections of ground water quality shall be based on the assumption of drought conditions (*assuming 60% of annual average precipitation*).

3. Cutting or removal of vegetation along waterbodies shall not increase water temperature, result in shoreline erosion or sedimentation of waterbodies (*Reference Sections 10.6 and 10.13*).

4. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the *Primary Drinking Water Standards*. No subdivision shall increase any contaminant concentration in the ground water to more than the *Secondary Drinking Water Standards*.

5. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

6. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

7. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, *those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots*.

B. **Ground Water Quantity.**

1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.

2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

## 10.10 Floodplain Management.

When any part of a subdivision is located in a special flood hazard area as identified by the ***Federal Emergency Management Agency***:

A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.

B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.

C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least two (2) feet above the 100-year flood elevation in Zone 'A', at least three (3) feet above 100-year flood elevation in Zone 'AE', and that NFIP Flood Plain Risk Management permitting is required for any developments within floodplain. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

D. Harvesting, clearing, grubbing, and earthwork advanced permitting approvals, as required (*Maine DEP, Local, Floodplain, MFS, SRCC, MEDOT*), within floodplain.

E. If any portion of the proposed subdivisions is in zones A or AE floodplain, Flood Hazard Development Permit Applications in accordance with the Floodplain Management Ordinance of the Town of Porter must be provided during review of this section.

## 10.11 Identification of Freshwater Wetlands.

Freshwater wetlands shall be identified in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers, and the *U.S. Fish & Wildlife Service ''National Wetlands Inventory''*.

## 10.12 Storm Water Management.

A. Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, storm drains and best management practices equivalent to those described in the *Maine's Stormwater Best Management Practices Manual (2016) or the current revision at the time the application is submitted* , in conformance with the policies of the comprehensive plan. The storm water management system shall be designed and submitted to meet the following standards:

1. Quantity.

   Peak discharge rates shall be limited to the predevelopment levels for the 2-year, 10-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body such as a great pond or the ocean.

2. Quality.

   Storm water run-off in subdivisions must be treated by the use of best management practices equivalent to those described in the *Maine's Stormwater Best Management Practices Manual (2016) or the current revision at the time the application is submitted*

B. Where necessary to achieve the above standards, there shall be provided *easements or drainage rights-of-way* with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not

within the right-of-way of a public street, perpetual easements shall be provided allowing maintenance and improvement of the system.

C. **Pollution.**

1. The proposed subdivision shall not discharge waste water to a water body without a license from the Maine Department of Environmental Protection.

2. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface waterbodies.

a. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.

3. Cutting or removal of vegetation along waterbodies shall not increase water temperature, result in shoreline erosion or sedimentation of waterbodies.

D. **Storm Water Management Design Guidelines.**

1. Design of best management practices shall be substantially equivalent to those described in the *Maine's Stormwater Best Management Practices Manual (2016) or the current revision at the time the application is submitted*

2. Drainage easements for existing water courses or proposed drainage ways shall be provided at least thirty (30) feet wide, conforming substantially with the lines of existing natural drainage.

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

4. Catch basins shall be installed where necessary and when located within a street shall be located at the curb line.

5. **Storm Drainage Construction Standards.**

a. **Materials.**

1. Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications *Section 706* for non-metallic pipe and *Section 707* for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street underdrains. Bituminous-coated steel pipes shall not be used.

2. Where the storm drainage pipe is to be covered by ten (10) feet or more of fill material, pipe material with a fifty (50) year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl-chloride (PVC) pipe, and corrugated aluminum alloy pipe.

3. Where storm drainage pipe may come into contact with salt water, corrugated aluminum alloy pipes shall be used.

b. **Pipe Gauges.**

Metallic storm drainage pipe shall meet the thickness requirements of Table 10.12-1, depending on pipe diameter:

**Table 10.12-1. Culvert Size and Thicknesses Material**

| Inside Diameter | Galvanized or Aluminum/Zinc Coated CMP OR Corrugated Aluminum Allow | Aluminum or Polymer Coated CMP |
|---|---|---|
| 15" - 24" | 14 ga. | 16 ga. |
| 30" - 36" | 12 ga. | 14 ga. |
| 42" - 54" | 10 ga. | 12 ga. |
| 60" - 72" | 8 ga. | 10 ga. |

c. **Misc Standards.**

1. Drain inlet alignment shall be straight in both horizontal and vertical alignment

2. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of four hundred (400) foot intervals.

d. **Clean-up.**

Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean.

## 10.13 IMPACTS ON WATER BODIES AND SHORELAND

1. *(FUTURE)*

2. **Buffer Strips - Impact on Water Quality or Shoreline.**

A. Within a strip of land extending one hundred (100) feet inland from the normal high-water line of a great pond or any tributary to a great pond, and seventy-five (75) feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. *The deeds and plans to any lots which include any such land shall contain the following restrictions*:

1. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six (6) feet.

2. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. No more than forty percent (40%) of the total volume of trees four inches (4'') or more in diameter, measured at four feet six inches (4'-6'') above ground level may be removed in any ten (10) year period.

3 In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under four (4) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.

4. Pruning of tree branches up to twelve (12) feet in height, provided that at least the top two-thirds (2/3rd) of the tree canopy is maintained.

5. Coordinate with phosphorus mitigation method selected in *Section 10.13 subsection 3.4a*.

3. **Phosphorus Impacts on Great Ponds.**

A. **Phosphorus Export.**

1. Any subdivision within the watershed of a great pond shall limit its post development phosphorus export in accordance with the intent of the Town of Porter Comprehensive Plan, dependent on the great pond in whose watershed the subdivision is located.

The Town shall keep an accurate record of subdivision permits issued by watershed and shall notify the comprehensive planning committee of the actual development rates, as the comprehensive plan is revised. The above table shall be amended as required by amendments to the comprehensive plan, reflecting changes in expected development rates.

2. **Simplified Phosphorus Review**.

The simplified review may be used for a:

a. Proposed subdivision of three (3) or four (4) lots and dwellings with less than two hundred (200) feet of new or upgraded street with:

1. A cumulative driveway length not to exceed four hundred fifty (450) feet for a three (3) lot subdivision, or

2. A cumulative access length not to exceed six hundred (600) feet for a four (4) lot subdivision;

b. Proposed subdivision of three (3) or four (4) lots and dwellings with no new or upgraded street with:

1.) A cumulative driveway length not to exceed nine hundred fifty (950) feet for three (3) lot subdivisions, or

2. A cumulative access length not to exceed one thousand one hundred (1,100) feet for four (4) lot subdivisions; or

c. Proposed subdivision consisting of multi-family dwellings that have less than twenty thousand (20,000) square feet of disturbed area including building parking, driveway, lawn, subsurface waste water disposal systems, and infiltration areas, and new or upgraded streets not exceeding two hundred (200) linear feet.

d. When a proposed subdivision is within the direct watershed of a great pond and qualifies for the simplified review procedure, buffer strips shall be provided in accordance with the following table. Buffer strips shall be provided on the downhill side of all lots along all tributaries to great ponds and along the great pond.

The minimum required width of buffer strips is designated in the Table 10.13-1 below and depend on the watershed in which the proposed subdivision is located, the size of the lot, the hydrologic soil group, and whether deed restrictions are proposed to limit the area which may be cleared on each lot.

***Table 10.13-1 Buffer Strip Widths in Watershed of Hypothetical Pond****

**Phosphorus Standard: 0.07 - 0.08 lbs./acre**
**Buffer Width (ft.) per lot**

| Lot Size | H.S.G* | Clearing Restricted to 12,500 sq. ft. | No Clearing Restrictions |
|---|---|---|---|
| < 1 Acre | A | 75 | 85 |
| < 1 Acre | B | 130 | 150 |
| < 1 Acre | C | NA | NA |
| < 1 Acre | D | NA | NA |
| 1-1.99 Acres | A | 25 | 25 |
| 1-1.99 Acres | B | 25 | 55 |
| 1-1.99 Acres | C | 55 | 190 |
| 1-1.99 Acres | D | 200 | NA |
| 2-2.99 Acres | A | 25 | 25 |
| 2-2.99 Acres | B | 25 | 25 |
| 2-2.99 Acres | C | 25 | 50 |
| 2-2.99 Acres | D | 25 | 200 |

*H.S.G.* - Hydrologic Soil Group*

***NOTE:** All lots **three (3)** acres and larger shall provide a minimum **twenty-five (25) foot** buffer.*

3. **Standard Review.**
This section shall apply to proposed subdivisions which do not qualify for the simplified review. Phosphorus export from a proposed development shall be calculated according to the procedures in *Volume 2 of the Maine Stormwater BMP Manual https://www.maine.gov/dep/land/stormwater/stormwaterbmps/index.html*. When a proposed subdivision creates lots which are more than twice the required minimum lot size or there are no deed or plan restrictions proposed to prohibit future divisions, the applicant shall either calculate phosphorus loading based on the maximum feasible number of lots and lot densities, and shall design controls adequate to limit the resulting phosphorus loading, or shall reserve a portion of the permitted phosphorus export for future divisions.

4. **Maintenance and Use Restrictions for Phosphorus Control Measures.**

Provisions for monitoring, inspections, and maintenance of phosphorus control measures shall be included in the application, with techniques provided below.

A. **Vegetative Buffer Strips.**

Individual lot owners shall be required to maintain buffer areas on their individual lots in accordance with the following standards, to be *specified in recorded deed restrictions and as notes on the plan*. Where a vegetative buffer strip is to be owned in common by property owners in the subdivision, documentation establishing the lot owners' association shall include the following standards.

i. **Wooded Buffers.**

Maintenance provisions for wooded buffers shall provide for either of the following two options.

a. **No Disturbance.**

Maintenance and use provisions for wooded buffer strips which are located on hydrologic soil group D soils, within two hundred fifty (250) feet of the great pond or a tributary, or which are located on slopes over 20% shall include the following.

1. Buffers shall be inspected annually for evidence of erosion or concentrated flows through or around the buffer. All eroded areas must be seeded and mulched. A shallow stone trench must be installed as a level spreader to distribute flows evenly in any area showing concentrated flows.

2. All existing undergrowth (*vegetation less than four feet six inches (4'-6'') high*), forest floor duff layer, and leaf litter must remain undisturbed and intact, except that one winding walking path, no wider than six (6) feet, is allowed through the buffer. This path shall NOT be a straight line to the great pond or tributary and shall remain stabilized.

3. Pruning of live tree branches that do not exceed twelve (12) feet above the ground level is permitted provided that at least the top two-thirds (2/3$^{rd}$) of the tree canopy is maintained.

4. No cutting is allowed of trees except for normal maintenance of dead, windblown, or damaged trees.

5. Buffers shall not be used for all-terrain vehicle or vehicular traffic.

b. **Limited Disturbance.**

Maintenance and use provisions for other buffer strips may include the following:

1. There shall be no cleared openings. An evenly distributed stand of trees and other vegetation shall be maintained.

2. Activity within the buffer shall be conducted to minimize disturbance of existing forest floor, leaf litter and vegetation less than four (4) feet in height. Where the existing ground cover is disturbed and results in exposed mineral soil, that area shall be immediately stabilized to avoid soil erosion.

3. Removal of vegetation less than four feet six inches (4'-6'') in height is limited to that necessary to create a winding foot path no wider than six (6) feet. This path shall NOT be a straight line to the great pond or a tributary. The path must remain stabilized.

4. Pruning of live tree branches that do not exceed twelve (12) feet in height above the ground level is permitted provided that at least the top two-thirds (2/3rd) of the tree canopy is maintained.

5. Where the removal of storm-damaged, diseased, unsafe, or dead trees results in a cleared opening, those openings shall be replanted with native trees at least three (3) feet in height unless existing new tree growth is present.

6. Buffers shall not be used for all terrain vehicle or vehicular traffic.

ii. **Non-wooded Buffers.**

a. Non-wooded buffers may be allowed to revert or to be planted to forest, in which case the standards above shall apply.

b. A buffer must maintain a dense, complete and vigorous cover of "non-lawn" vegetation which shall be mowed no more than once a year. Vegetation may include grass, other herbaceous species, shrubs and trees.

c. Activity within the buffer shall be conducted so as to prevent damage to vegetation and exposure of mineral soil. Burning of vegetation shall be prohibited.

d. Buffers shall not be used for all-terrain vehicles or other vehicular traffic.

B. **Infiltration Systems.**

Individual lot owners shall be responsible for maintenance of individual infiltration systems according to the standards specified in *Volume 2 of the Maine Stormwater BMP Manual*

https://www.maine.gov/dep/land/stormwater/stormwaterbmps/index.html

*Requirements for maintenance shall be included in deed restrictions and as notes upon the plan*. As an alternative to maintenance by individual lot owners, the applicant may designate some other entity to be contracted to take the responsibility, and shall include the above referenced maintenance provisions in any contractual agreement. Where infiltration systems serve more than one lot, *a lot owners' association shall be established and the above referenced maintenance provisions shall be referenced in the documentation establishing the association*.

C. **Wet Ponds.**
A lot owners' association shall be established to maintain wet ponds, unless some other public entity agrees to assume inspection and maintenance duties. Documentation establishing the association or establishing an agreement with a private entity shall include the maintenance standards specified in the manual *Volume 2 of the Maine Stormwater BMP Manual:*

https://www.maine.gov/dep/land/stormwater/stormwaterbmps/index.html

**10.14 OPEN SPACE AND COMMON LAND**

A. All open space common land, facilities and property shall be owned by:

1. The owners of the lots or dwelling units by means of a lot owners' association;

2. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or

B. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the association, there shall be a *conservation easement* prohibiting future development.

C. The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:

1. It shall not be used for future building lots; and

D. The final plan application shall include the following:

1. Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.

2. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and

3. Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.

E. In combination, the documents referenced in *paragraph D* above shall provide for the following:

1. The homeowners' association shall have the responsibility of maintaining the common property or facilities.

2. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.

3. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.

4. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the developer.

F. **Retention of Open Spaces and Natural or Historic Features.**

1. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or, the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

2. If any portion of the subdivision includes or is adjacent to a site of historic, historically notable, or prehistoric importance by the comprehensive plan, the *Maine Historic Preservation Commission*, the *Parsonsfield-Porter Historical Society*, or is listed on the *National Register of Historic Places*, appropriate measures for the protection of the historic, historically notable, or prehistoric resources shall be included in the plan.

   When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the *Maine Historic Preservation Commission* and the *Parsonsfield-Porter Historical Society* in reviewing such plans.

3. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants as follows:

   a. The subdivision as proposed with an average density of three (3) dwelling units or more per acre shall reserve between 15% and 30% of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision and/or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the needs identified in the comprehensive plan for open space or recreation facilities in the neighborhood surrounding the subdivision and the policies of the plan for meeting those needs; the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development.

   b. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one (1) or more streets of at least two hundred (200) feet, and have no major dimensions of less than two hundred (200) feet.

   c. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable, based on housing and lot density as proposed, between twenty-five (25) and seventy-five (75) feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.

4. Land reserved for open space purposes shall be of a character, configuration and location shall be suitable for the particular use intended.

## 10.15 Traffic Conditions and Streets.

**A. General Standards**

The proposed land use shall meet the following general transportation performance standards:

1. The transportation system shall provide safeguards against hazards to vehicles, bicyclists and pedestrians in interior streets and access connections to external streets;

2. The transportation system shall have design standards that avoid traffic congestion on any street;

3. The transportation system shall provide safe and convenient circulation for vehicles, bicyclists and pedestrians on interior streets and access connections to external streets;

4. The transportation system shall have design standards that are compatible with the estimated Average Annual Daily Traffic of the street, the land uses accommodated by the street, and the housing and lot density of the street as proposed; and

5. The transportation system shall have a positive relationship to the natural setting of the proposed site.

B. **General Access Standards.**
All accesses connecting with external streets shall meet the following standards:

1. Accesses connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation *"Highway Driveway and Entrance Rules"*;

2. Accesses that are expected to carry more than 100 passenger vehicle equivalent trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation *"Rules and Regulations Pertaining to Traffic Movement Permits".*

3. The street giving access to land use and neighboring streets and intersections which can be expected to carry traffic generated by the land use shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No land use shall reduce the Level of Service (LOS) of streets or intersections neighboring the land use to a LOS of "E" or below, unless:

a. the comprehensive plan has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection; or

b. the level of service of the road or intersection will be raised to D or above through transportation demand management techniques; or

c. the applicant provides evidence that it is not possible to raise the level of service of the road or intersection to D or above by road or intersection improvements or by transportation demand management techniques, but improvements will be made or transportation demand

management techniques will be used such that the proposed development will not increase delay at a signalized or unsignalized intersection, or otherwise worsen the operational condition of the road or intersection in the horizon year; or

d. improvements cannot reasonably be made because the road or intersection is located in a village district or because implementation of the improvements will adversely affect a historic or historically notable sites as defined in 06 - 096 CMR 375(11) (*Preservation of Historic Sites*), the Town of Porter Comprehensive Plan, or the Parsonsfield-Porter Historical Society 2006 Edition of ''Porter Maine 200 years''; and transportation demand management techniques will be implemented to the fullest extent practical; or

e. The development is located in a designated growth area, in which case the applicant shall be entitled to an exception from the level of service mitigation requirements set forth under the General Standards in this Section. This exception applies even if part or all of the traffic impacts of the proposed development will occur outside the boundaries of the designated growth area. This exception does not exempt the development from meeting safety standards, and greater mitigation measures may be required than otherwise provided in this subsection if needed to address safety issues; or

f. In the case of unsignalized intersections, if traffic with the development in place would not meet the warrant criteria for signalization or turning lanes, as set forth in the Federal Highway Administration's *"Manual on Uniform Traffic Control Devices,"* (*MUTCD 1988*), then the municipal reviewing authority may reduce the mitigation requirement for those measures so long as the resulting traffic conditions provide for safe traffic movement.

4. Accesses to non-residential land uses or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.

C. **General Internal Subdivision Street Standards**

All internal land use streets shall meet the following minimum standards. In cases where the internal land use street standards conflict with the street ordinance of the municipality, the more stringent rule shall apply.

1. The street or street system of the proposed land use shall be designed to coordinate with existing, proposed, and planned streets. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided as deemed necessary by the municipality to provide access to abutting properties or to logically extend the street system. All street stubs shall be provided with temporary turn around or cul-de-sacs unless specifically exempted by the municipality, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.

2. Where necessary to safeguard against hazards to vehicle drivers, bicyclists and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycleways, transportation demand management techniques, and traffic controls within existing public streets.

3. **Street Names, Signs and Lighting.**

Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the reviewing authority. No street name shall be the common given name of a person. The developer shall install street name, traffic safety and control signs meeting this regulation and the Town of Porter Land Use Ordinance. Street lighting shall be installed as approved by the reviewing authority.

3a. Engineering. Traffic safety signage, traffic control signage, streets, and lighting analysis and design for subdivisions shall be designed by a Professional Engineer registered in the State of Maine, and depicted on the plans for Final Approval.

4. During street construction, the entire right of way shall not be cleared unless clearing is necessary for utilities, drainage or other infrastructure necessities beyond the clear zone. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire right of way created during the street construction process. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

**10.15.1 Specific Access and Street Design Standards.**

A. **Access Control.**

1. To the maximum extent practical, all land use accesses shall be constructed perpendicular to the external street providing access to the land use. No land use accesses shall intersect the external street at an angle of less than 60 degrees.

2. Where a land use abuts or contains an existing or proposed arterial street, no lot may have vehicular access directly to the arterial street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.

3. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots. In cases where creating an access to a lesser traveled way is problematical, the reviewing authority may allow an access on the higher volume street if the access does not significantly detract from public safety. For accesses on higher volume streets, the reviewing authority shall consider the functional classification of the external street, the length of frontage on the external street, the intensity of traffic generated by the proposed subdivision, the geography along the frontage of the public way with lesser potential for traffic, and the distance to the public way with lesser potential for traffic. In cases where the double frontage lot has frontage on two Maine

Department of Transportation designated noncompact arterials, the access shall meet the permitting standards of the Maine Department of Transportation *"Highway Driveway and Entrance Rules"*.

4. Lots in subdivisions with frontage on a state or state aid highway shall have shared access points to and from the highway. A maximum of two accesses shall be allowed regardless of the number of lots or businesses served, if the conditions of Article 4.2 section A, subsection 3 of the Town of Porter Land Use Ordinance have been validated by the Planning Board during land use permitting review.

5. The land use access including all radii must be paved from the edge of pavement of the external street to the street right of way or the length of the design vehicle using the land use, whichever is greater, unless:

a. the external street is not paved; or

b. the internal subdivision street is an unpaved private street that is expected to carry an Average Daily Traffic capacity of 50 trips or less.

6. **Minimum Sight Distance Standards.** Minimum sight distance requirements for all land use accesses connecting to external streets shall be contingent on the posted speed of the external street connecting to the land use access. For accesses that are expected to carry primarily passenger vehicles, the standards in the second column in Table 10.15-1 shall apply. For accesses that are estimated to carry more than 30% of their traffic in vehicles larger than standard passenger vehicles, the standards in the third column of Table 10.15-1 shall apply. On roads that are designated by the Maine Department of Transportation as Mobility or Retrograde Arterials, the third column in Table 10.15-1 shall apply.

**Table 10.15-1 Minimum Sight Distance Standards for Accesses**

| Posted Speed (MPH) | Sight Distance Standard Vehicles (Feet) | Sight Distance Larger Vehicles (Feet) | Mobility Sight Distance (Feet) |
|---|---|---|---|
| **20** | 155 | 230 | NA |
| **25** | 200 | 300 | NA |
| **30** | 250 | 375 | NA |
| **35** | 305 | 455 | NA |
| **40** | 360 | 540 | 580 |
| **45*** | 425 | 635 | 710 |
| **50** | 495 | 740 | 840 |
| **55** | 570 | 855 | 990 |

6a. Subdivisions– The minimum site distance when entering an existing town way for subdivision lots shall be based on a 45 M.P.H. roadway regardless of current town way speed design, to account for future development growth.

7. Access design shall be based on the traffic volume estimates anticipated to be carried by the internal subdivision street as proposed. Traffic volume estimates shall be defined by the latest edition of the

*Trip Generation Manual* published by the *Institute of Transportation Engineers*. The following traffic volume standards shall apply to the design of subdivision accesses connecting to external streets:

a. Low Volume Access: An access with 50 or less passenger car equivalent trips per day.

b. Medium Volume Access: Any access with more than 50 passenger car equivalent trips per day but less than 100 passenger car equivalent trips during the peak hour.

c. High Volume Access: Any access with 100 or more passenger car equivalent trips during the peak hour.

8. Basic Access Design Standards for Low and Medium Volume Accesses The following minimum access design standards shall apply to all low and medium volume accesses connecting to external streets:

**Table 10.15-2. Access Design Standards for Low and Medium Volume Accesses**

| Access Type | Condition | Low Volume <50 ADT (feet) | Medium Volume 51-99 ADT (feet) |
|---|---|---|---|
| **Distance to lot lines** | Majority is Passenger Vehicles (Rural) | **20** | **20** |
| | >30% Larger Vehicles (Rural) | **25** | **25** |
| | Majority is Passenger Vehicles (V/GD) | **10** | **10** |
| | >30% Larger Vehicles (V/GD) | **15** | **15** |
| **Minimum Access Width*** | Majority is Passenger Vehicles | 14 | 22 |
| | >30% Larger Vehicles | 30 | 30 |
| **Minimum Curb Radius** | Majority is Passenger Vehicles | 10 | 15 |
| | >30% Larger Vehicles | 15 | 15 |
| **Minimum Corner Clearance to **** | Unsignalized Intersection | 75 | 100 |
| | Signalized Intersection | 125 | 125 |
| **Minimum Access Spacing *** related to speed rating of the External Road** | 35 or Less M.P.H. | NR | NR |
| | 40 M.P.H. | 175 | 175 |
| | 45 M.P.H. | 265 | 265 |
| | 50 M.P.H. | 350 | 350 |
| | 55+ M.P.H. | 525 | 525 |

* Min widths for low or medium volume accesses shall be either the minimum cross section width of the internal street in Table 10.15-3 or the minimum access width in this Table, whichever is greater.
** Min corner clearance shall be the distance measured from the edge of an internal access excluding radii to the edge of an external street excluding radii.
*** Min access spacing shall be the distance measured from the edge of an internal access excluding radii to the edge of a neighboring access excluding radii.

9. Additional Access Requirements for Medium Volume Accesses In addition to the basic access standards outlined in 10.15-2., medium volume accesses on state or state-aid highways designated as Major Collectors or Arterials shall also comply with the following standards:

a. The minimum curb radius on the edge of the access shall exceed the minimum curb radius standard in 10.15-2. if a larger design radius is needed to accommodate a larger design vehicle.

b. A throat shall be constructed around the access in order to store vehicles waiting to exit the access. The throat shall be of sufficient length to prevent incoming vehicles from queuing back into the highway. Access from the throat to parking or other areas shall be prohibited.

c. A separator strip or strip of land that separates the roadway from the throat or parking area shall be constructed. The access separator strips shall be installed between the parking area and the roadway
and along the throat. The reviewing authority shall determine if the separator strip shall include curbing, walkways, ditching, and/or vegetation. The separator strip shall extend away from the highway at a minimum of nine (9) feet from the traveled way of the external road.

d. The reviewing authority shall determine if one two-way or two one-way access(es) will be required for the proposed land use. If a one-way system is required and the predominant traffic volume is truck traffic, the entrance will be configured on the minimum angle that permits the truck to enter or leave the highway safely and conveniently. Otherwise, all one-way accesses will be configured perpendicular to the highway for at least the length of the design vehicle. For one-way access systems, the reviewing authority shall determine if a physical separation of curbing, ditching, grass or other landscaping must be used between the two one-way accesses. Both portions of a one-way access must be separated from another one-way access by at least twelve (12) feet.

10. All high-volume accesses shall meet the requirements of the Maine Department of Transportation's *"Rules and Regulations Pertaining to Traffic Movement Permits."* A copy of the Maine Department of Transportation's required traffic study shall be submitted to the reviewing authority. The reviewing authority shall develop design standards for the proposed land use access based on the findings of the traffic study submitted to the Maine Department of Transportation. The design standards shall be compatible with the performance standards cited in Section 10.15.B of the Subdivision Regulations.

B. **Street Design and Construction Standards.**

1. **General Requirements.**

a. The reviewing authority shall not approve any plan unless proposed streets are designed by a professional engineer licensed in the State of Maine and in accordance with any local ordinance or the specifications contained in these regulations. *Approval of the final plan by the reviewing authority shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.*

b. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within three-hundred (300) feet of any proposed intersections. The plan view shall be at a scale of one-inch equals no more than fifty feet. The vertical scale of the profile shall be one-inch equals no more than five (5) feet. The plans shall include the following information:

1. Date, scale, and north point, indicating magnetic or true.

2. Intersections of the proposed street with existing streets.

3. Roadway and right-of-way limits including edge of pavement or aggregate base, edge of shoulder, clear zone, sidewalks, and curbs.

4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.

5. Complete curve data shall be indicated for all horizontal and vertical curves.

6. Turning radii at all intersections.

7. Centerline gradients.

8. Size, type, vertical clearance and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.

c. Upon receipt of plans for a proposed public street the reviewing authority shall forward one copy to the municipal officers and the road commissioner for review and comment.

d. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road commissioner, municipal officers, or the Maine Department of Transportation, as appropriate, and designed by a professional engineer registered in the State of Maine.

e. **Private Roads**.

The following standards shall apply to all proposed private roads:

1. All private roads shall be designated as such and will be required to have adequate signage indicating the road is a private road and not publicly maintained, in accordance with the Town of Porter Land Use Ordinance.

2. Except for sidewalk, bicycle provisions and minimum grade requirements stipulated in this Section, all private roads shall adhere to the road design standards of this Section.

3. The reviewing authority may approve a reduction of the right of way easement for private roads to a minimum of thirty (30) feet in land use density areas designated as "Rural" in Section 10.15.1.B.2.f.

4. All properties served by the private road shall provide adequate access for emergency vehicles and shall conform to the approved local street numbering system per the Town of Porter Street Addressing Ordinance. New driveways capable of serving two (2) or more dwellings are required to be built to appropriate road standards in this regulation and named as a private way.

5. All private roads shall have adequate provisions for drainage and stormwater runoff as provided in Section 10.12.

6. Where the land use streets are to remain private roads, the following words shall appear on the recorded plan: "All roads shall remain private roads to be maintained by the developer, the lot owners, or lot owners' association and shall not be candidates to be accepted or maintained by the Town"

2. **Street Design Standards.**

a. These design guidelines shall control the roadway, shoulders, clear zones, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of this Article.

b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.

c. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations and the Maine Department of Transportation.

d. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations or the Maine Department of Transportation), or when the comprehensive plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked *"Reserved for Road Realignment (Widening) Purposes."* Land reserved for such purposes may not be included in computing lot area or setback requirements of the zoning ordinance. When such widening or realignment is included in the municipality's capital investment plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.

e. Any land use expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public streets, streets shown on an Official Map, or streets on an approved plan for which performance guarantees have been filed and accepted. Any street with an average daily traffic of 200 trips per day or more shall have at least two street connections leading to existing public streets, streets

shown on an Official Map, or streets on an approved plan for which performance guarantees have been filed and accepted.

f. The design standards of Table 10.15-3 shall be compatible with the traffic volume access thresholds referenced in Section 10.15.1.A.7. In addition, the street design standards shall be compatible with the estimated Average Daily Traffic expected to occur on the internal street, and the land use type, lot size, and lot density proposed to be in the land use zone. The following land use density pattern requirements shall be required for the following land use zones.

1. Land use density patterns that are Rural (R) shall apply to the following zones: Rural

2. Land use density patterns that are Village (V) and/or General Development (GD) shall apply to the following zones: Village/General Development

*Go to Road Design Chart, Table 10.15-3*

g. The reviewing authority shall have authority to increase the minimum standards in Table 10.15-3, if the reviewing authority approves a road design that will accommodate travel speeds greater than 30 mph, and for anticipated parking demands.

**Table 10.15-3 Street Design Guidelines**

| **Access Category** | **Low-Low Volume** | | | **Low Volume** | | | **Medium Volume** | | | | | | **High Volume** | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| **Traffic Volume Level** | **1-50 ADT** | | | **50-100 ADT** | | | **100-400 ADT** | | | **400-1500 ADT** | | | **1500+** | | | **100 PCE+** | | |
| **Density Pattern** | R | V/GD | I/C | R | V/GD | I/C | R | V/GD | I/C | R | V/GD | I/C | R | V/GD | I/C | R | V/GD | I/C |
| **Minimum Right of Way (ft)** | 40 | 40 | 40 | 40 | 40 | **50** | 50 | 50 | 50 | 50 | 50 | 50 | 60 | 60 | 60 | 60 | 60 | 60 |
| **Traveled Way Width (ft)** | **15'-18'** | **15'-18'** | **15'-18'** | 18 | 18 | **24** | 18 | **20** | **28** | 18 | 20 | **30** | 20 | **20** | 30 | 22 | 24 | 30 |
| **Shoulder Width (*each side*)[1] - ft** | **0 - 1.5'** | **0 - 1.5'** | **0 - 1.5'** | 0 | **0** | 2 | 2 | 1 | 2 | 2 | 2 | 4 | 3 | 4 | 5 | 3 | 4 | 5 |
| **Clear Zone Width (*each side*) - ft** | **6** | **6** | **6** | **6[2]** | **6[2]** | **6[2]** | **6[2]** | **6[2]** | **6[2]** | **7** | **7** | **7** | 8 | 8 | 8 | 8 | 8 | 8 |
| **Minimum Vertical Clearance[3]** | 14 feet (typical) | | | | | | | | | | | | | | | | | |
| **Minimum Grade** | 0.5% (typical) | | | | | | | | | | | | | | | | | |
| **Grade within first 75 ft of intersection** | 3% (typical) / 2% for Mobile Home Parks and Campgrounds | | | | | | | | | | | | | | | | | |
| **Max Grade Overall[4]** | 8% | 8% | 5% | 8% | 8% | 5% | 8% | 8% | 5% | 6% | 6% | 5% | 6% | 6% | 5% | 5% | 5% | 5% |
| **Min Centerline Radius[5] (ft)** | 100 | 100 | 350 | 100 | 100 | 350 | 100 | 100 | 350 | 140 | 140 | 350 | 140 | 140 | 350 | 350 | 350 | 350 |
| **Road Crown/Pitch Asphalt Surface** | .25 inch/ft (typical) | | | | | | | | | | | | | | | | | |
| **Min Road Crown/Pitch Gravel Surface** | **0.5 inch/foot (typical)** | | | | | | | | | | | | | | | | | |
| **Minimum Internal Sight Distance (ft)** | 155 | 155 | 230 | 155 | 155 | 230 | 155 | 155 | 230 | 155 | 155 | 230 | 155 | 155 | 230 | 155 | 155 | 230 |
| **Minimum Internal Spacing Standards[6]** | 25 | 25 | 40 | 25 | 25 | 40 | 25 | 25 | 40 | 25 | 25 | 40 | 25 | 25 | 40 | 25 | 25 | 40 |
| **Minimum Internal Access to Street Corner Clearance[7]** | 30 | 30 | 75 | 30 | 30 | 75 | 30 | 30 | 75 | 30 | 30 | 75 | 30 | 30 | 75 | 30 | 30 | 75 |

[1]The reviewing authority may require an increase in shoulder width for stormwater management purposes or road stabilization.
[2]Engineering may warrant isolated clear zones of seven (7) feet, depending on existing conditions.
[3]The minimum vertical clearance is the vertical clearance over the entire roadway width, including any shoulders.
[4]Maximum grade may be exceeded for a length of 100 feet
[5]Superelevation is not recommended for any street, unless recommended by a qualified person or a Town-hired consultant.
[6]Internal spacing distances are measured from the edge of one internal land use access to another, excluding curb radii.

[7]Internal access to street corner clearances are measured from the edge of an internal land use access to an intersecting public road, excluding curb radii.

h. **Parking.**

The reviewing authority shall have authority to require a paved cross section of twenty-six (26) feet for residential subdivisions with average lot widths less than two hundred (200) feet wide for on-street spillover parking.

i. **Curbs.**

1. Curbs shall be installed for stormwater purposes and/or to protect the pavement edge from unraveling along parking lanes or in very intensive developments where heavy use may erode the planted area at the edge of the pavement. Curbs for stormwater management shall be contingent on the stormwater design standards specified in Section 10.12. If curbs are not necessary for stormwater management purposes, they are not required for subdivisions in which the average lot width is two hundred (200) feet or greater.

2. If the reviewing authority requires a vertical curb and no parking lane is present, a minimum shoulder of two (2) feet is recommended from the traveled way to the curb. For sloped curbs where no parking lane is present, a minimum one (1) foot shoulder is required from the traveled way to the curb.

3. Granite curbing shall be installed on a thoroughly compacted gravel base of six (6) inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement.

j. The reviewing authority may require additional shoulder lengths in any situation where the proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other bicycle traffic generators suggest that additional shoulder lengths will be needed for bicycle traffic. In situations where additional shoulder lengths are required for bicyclists, the minimum width of a paved shoulder shall be one (1) foot on either side of the traveled way for all low and medium volume streets in Rural (R) designated zones defined in Section 10.15.1.B.2..f. Paved shoulder widths for low and medium volume streets in Village (V) designated zones shall be a minimum of two (2) feet on either side of the traveled way.

k. The centerline of the new roadway shall be the centerline of the right-of-way.

l. **Dead End Streets.**

In addition to the design standards in Table 10.15-3, dead-end streets shall be constructed to provide a cul-de-sac turn-around with a travel lane and width equal to the minimum width required for the internal street. For all residential cul-de-sacs the minimum radius shall be thirty-eight (38) feet. For commercial/industrial cul-de-sacs the minimum radius shall be fifty (50) feet. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The reviewing authority shall require the reservation of a twenty (20) foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The reviewing authority may also require the reservation of a right-of-way easement equal to the right of way width of the internal subdivision street in line with the street to provide continuation of the road where future subdivision is possible. A T-turn

around is permissible for residential subdivisions carrying an ADT of 100 or less. The turnaround area shall have a width equal to the street width, a five (5) foot turning radius, and a total length of fifty (50) feet centered above the street.

m. **Sidewalks.**

The reviewing authority may require sidewalks in any situation where the proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other pedestrian traffic generators suggest sidewalks will be needed. The reviewing authority shall determine if sidewalks will be installed on one side or both sides of the street, and if the sidewalk shall be a bituminous or Portland cement concrete sidewalk.

1. **Location.**

Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of 2 ½ feet from the curb facing or edge of shoulder if the street is not curbed. If no shoulder is required, the sidewalk shall be located a minimum of four (4) feet from the edge of the traveled way.

Sidewalks parallel to existing Town ways must be placed so as to accommodate the subdivision added traffic and existing ADT of the Town Way, utilizing Table 10.15-3.

2. **Bituminous Sidewalks.**

(a) The “subbase” aggregate course shall be no less than twelve (12) inches thick after compaction.

(b) The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each no less than one (1) inch after compaction.

3. Portland Cement Concrete Sidewalks.

(a) The “subbase” aggregate shall be no less than twelve (12) inches thick after compaction.

(b) The portland cement concrete shall be reinforced with six (6) inch square, number 10 wire mesh (or equivalent) and shall be no less than four inches thick.

3. **Street Construction Standards.**

a. The minimum thickness of material after compaction shall meet the specifications in Table 10.15-4.

**Table 10.15-4. Minimum Pavement Materials Thicknesses**

| **Street Materials** | **Thickness Standards** |
|---|---|
| Aggregate Subbase Course *(Max. sized stone 6")* w/o Base Gravel | 18" |
| Aggregate Subbase Course *(Max. sized stone 6")* with Base Gravel | 15'' |
| Crushed Aggregate Base Course *(if necessary)* | 3'' |
| Hot Bituminous Pavement: Base Course | 1 3/4" |
| Hot Bituminous Pavement: Surface Course | 1 1/4" |
| Hot Bituminous Pavement: Total Thickness | 3" |
| Surface Gravel | 3'' |

b. **Preparation.**

1. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty-foot intervals.

2. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, clear zones, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.

3. All organic materials or other deleterious material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two (2) feet below the subgrade of the roadway. On soils which have been identified by a qualified person or a Town-hired consultant as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.

4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.

5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

c. **Bases and Pavement.**

1. **Bases/Subbase.**

(a) The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch square mesh sieve shall meet the grading requirements of Table 10.15-5.

**Table 10.15-5. Aggregate Subbase Grading Requirements**

| Sieve Designation | Percentage by Weight Passing Square Mesh Sieves |
|---|---|
| 1/4 inch | 25-70% |
| No. 40 | 0-30% |
| No. 200 | 0-7% |

Aggregate for the subbase shall contain no particles of rock exceeding six inches in any dimension.

(b) If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch square mesh sieve shall meet the grading requirements of Table 10.15-6.

**Table 10.15-6. Base Course Grading Requirements**

| Sieve Designation | Percentage by Weight Passing Square Mesh Sieves |
|---|---|
| 1/2 inch | 45-70% |
| 1/4 inch | 30-55% |
| No. 40 | 0-20% |
| No. 200 | 0-5% |

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

2. **Pavement Joints.**

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint. Tack coat is to be applied to all cold joints, both perpendicular and parallel.

3. **Pavements.**

(a) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is equal to 35°F or higher, rising, and the surface to be paved is not frozen or unreasonably wet.

(b) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is equal to 50°F or higher, and rising.

4. **Surface Gravel.** The reviewing authority may approve an aggregate road base for any internal public street in which zoning requires a minimum of one dwelling unit per seven (7) acres, or any private way with a maximum estimated Average Daily Traffic of 50 ADT or less. The surface gravel shall meet the gravel grading requirements of Table 10.15-7.

**Table 10.15-7. Surface Gravel Grading Requirements**

| Sieve Designation | Percentage by Weight Passing Square Mesh Sieves |
|---|---|
| 2 inches | 95-100% |
| 1/2 inch | 30-65% |
| No. 200 | 7-12% |

# ARTICLE 11 - Performance Guarantees

**11.1 Types of Guarantees.**

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

A. Either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account;

B. A performance bond payable to the municipality issued by a surety company, approved by the municipal officers;

C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Municipality may draw if construction is inadequate, approved by the municipal officers or town manager.

D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed. The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the municipal officers, the road commissioner, and/or municipal attorney.

**11.2 Contents of Guarantee.**

The performance guarantee shall contain a construction schedule, qualified cost estimates for each major phase of construction taking into account inflation, a reasonable inflation/contingency allowance, provisions for inspections milestones of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, as-built certification before final release, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.

**11.3 Escrow Account.**

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or co–owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.

**11.4 Performance Bond.**

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

**11.5 Letter of Credit.**

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

**11.6 Conditional Agreement.**

The Board at its discretion may provide for the applicant to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the final plan on the condition that no more than four (4) lots, dwelling types, or a combination thereof may be sold or built upon until either:

A. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or

B. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

**11.7 Phasing of Development.**

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

**11.8 Release of Guarantee.**

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer or other qualified individual(s) retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

**11.9 Default.**

If upon inspection, the Code Enforcement Officer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the code enforcement officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

**11.10 Improvements Guaranteed.**

Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations and the Town of Porter Land Use Ordinance, and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

# ARTICLE 12 - Waivers

**12.1 Waivers Authorized – When Waiving Submission Requirements.**

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, or that the application is simple and minor in nature, it may waive portions of the submission requirements, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, building code, the zoning ordinance, or these regulations.

**12.2 Findings of Fact Required – When Waiving Physical Improvements.**

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, unless prohibited by these regulations or Maine statutes, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, building code, the zoning ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

**12.3** *(FUTURE)*

**12.4 Conditions.**

Waivers may only be granted in accordance with *Sections 12.1 and 12.2 above*. When granting waivers, the Board shall set conditions so that the purposes of these regulations are met.

**12.5 Waivers to be shown on final plan.**

When the Board grants a waiver to any of the improvements required by these regulations, *the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.*

**12.6 Time Limitations.**

The variance is not valid until recorded as provided in *M.R.S.A. 30-A §4406 §§ 1.B*. Recording must occur within two (2) years of the final subdivision approval or approval under *Title 38 M.R.S.A, chapter 3, subchapter 1, article 6*, where applicable, whichever date is later, or the variance is void.

# ARTICLE 13 - APPEALS

## 13.1 Appeals to Superior Court.

An aggrieved party may appeal any decision of the Board under these regulations to Oxford County Superior Court, within thirty (30) days of the date the Board issues a written order of its final plan decision.