

**PORTER LAND USE ORDINANCE**

***PORTER, MAINE***

***LAND USE ORDINANCE***

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**PORTER LAND USE ORDINANCE**

*TABLE OF CONTENTS*

		<i>PAGE</i>
<i>ARTICLE I</i>	<i>GENERAL PROVISIONS</i>	
1.1	<i>Legal Authority</i>	
1.2	<i>Purpose</i>	
1.3	<i>Effective Date</i>	
1.4	<i>Availability</i>	
1.5	<i>Severability</i>	
1.6	<i>Conflicts with Other Ordinances</i>	
1.7	<i>Validity and Amendments</i>	
1.8	<i>Official Zoning Map a Part of this Ordinance</i>	
1.9	<i>Districts and Zoning Map</i>	
1.10	<i>Certification of Zoning Map</i>	
1.11	<i>Changes in the Official Zoning Map</i>	
1.12	<i>Replacement of the Official Zoning Map</i>	
1.13	<i>Conflicts Between Official Zoning Map and Ordinance Text</i>	
1.14	<i>Interpretation of Boundary Location</i>	
1.15	<i>Division of Lots by District Boundaries</i>	
<i>ARTICLE II</i>	<i>NON-CONFORMING SITUATIONS</i>	
2.1	<i>General Provisions</i>	
2.2	<i>Non-Conforming Uses</i>	
2.3	<i>Non-Conforming Structures</i>	
2.4	<i>Non-Conforming Lots</i>	
2.5	<i>Non-Conforming as to Performance Standards/Site Development</i>	
2.6	<i>Vested Rights</i>	
<i>ARTICLE III</i>	<i>DISTRICTS AND DIMENSIONAL REQUIREMENTS</i>	
3.1	<i>Designation of Districts</i>	
3.2	<i>Dimensional Standards</i>	
3.3	<i>General Requirements</i>	
3.4	<i>Uses Permitted</i>	
<i>ARTICLE IV.</i>	<i>PERFORMANCE STANDARDS - GENERAL REQUIREMENTS</i>	

PORTER LAND USE ORDINANCE

4.1 Applicability and Purpose

4.2 Standards

- 4.2.A Access Control and Traffic Impacts
- 4.2.B(4.2H) Off-Street Parking and Loading Requirements
- 4.2.C(4.2L) Roads and Driveways
- 4.2.D(4.2E) Light and Glare
- 4.2.E(4.2G) Noise
- 4.2.F(4.2J) Refuse Disposal
- 4.2.G(4.2S) Water Quality Protection
- 4.2.H(4.2N) Sanitary Standards
- 4.2.I(4.2C) Dust, Fumes, and Gases
- 4.2.J(4.2D) Explosive Materials
- 4.2.K(4.2N) (~~Setback~~) **Landscape Buffers** and Screening
- 4.2.L(4.2Q) Soils and Soil Erosion Control
- 4.2.M(4.2R) Storm Water Run-Off
- 4.2.N(4.2T) Water Supply
- 4.2.O(4.2U) Other Regulations Apply
- 4.2.P(4.2O) Signs
- 4.2.Q(4.2P) Solar Consideration
- 4.2.R(4.2V) Preservation of Historic and Archaeological Resources
- 4.2.S(4.2F) Land Uses and Activities in the Resource Protection District and All Shoreland Areas
- 4.2.T(4.2B) Clearing or Removal of Vegetation for Development in a Shoreland Zone
- 4.2.U(4.2W) Essential Services in the Shoreland Zone
- 4.2.V **Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal within Shoreland**
- 4.2.W **Revegetation Requirements within Shoreland**
- 4.2.X **Exemptions to Clearing and Vegetation Removal Requirements within Shoreland**
- 4.2.I ~~Preservation of Landscape~~
- 4.2.K ~~Relation of Proposed Building to Environment~~

Comment [DDS1]: Need to understand all infrastructure

Comment [DDS2]: After infrastructure, need to understand all potential impacts

Comment [DDS3]: Knowing infrastructure and impacts, determine buffers and screening

Comment [DDS4]: Evaluate erosion and drainage together

Comment [DDS5]: Review internal compliance items

Comment [DDS6]: Review peripheral community impacts

Comment [DDS7]: NEW MEDEP Sections

Comment [DDS8]: Consolidated and relocated to Article III General Requirements

ARTICLE V. PERFORMANCE STANDARDS - SPECIFIC ACTIVITIES AND LAND USES

- 5.1(5.2) Adult Businesses
- 5.2(5.3) Agriculture
- 5.3(5.4) Animal Husbandry (>30 AEU or 300 AFO/CAFO)

Comment [PB9]: -95% of the farms in the U.S. are not industrial agriculture or animal factories. Meaning they are under 30 AEU or 300 AFO/CAFO  
-The remaining 5% (largest industrial agriculture and animal factories) account for nearly 95% of the federal regulatory infractions.  
-Under 30 AEU or 300 AFO/CAFO would be classified under Agriculture in this ordinance.

PORTER LAND USE ORDINANCE

- ~~5.4(5.5)~~ Automobile Graveyards and Junkyards
- ~~5.5(5.6)~~ Bed & Breakfast, **Boarding, or Renting Rooms**
- ~~5.6(5.8)~~ Campgrounds
- ~~5.7(5.26)~~ Civic, Social Service Uses, Churches, and Not-for-Profits
- ~~5.8(5.9)~~ Cluster Developments
- ~~5.9(5.10)~~ Garage and Yard Sales
- ~~5.10(5.11)~~ Ground Water and/or Spring Water Extraction and/or Storage
- ~~5.11(5.31)~~ High Impact Commercial and High Impact Industrial
- ~~5.12(5.14)~~ Hotels/Motels/Inns
- ~~5.13(5.15)~~ Individual Private Campsites
- ~~5.14(5.16)~~ Kennels and Veterinary Hospitals
- ~~5.15(5.18)~~ Mineral Exploration and Extraction
- ~~5.16(5.19)~~ Minor Earthmoving Activities
- ~~5.17(5.20)~~ Mobile Home Parks
- ~~5.18(5.17)~~ Modular Housing and Mobile Homes
- ~~5.19(5.29)~~ Motorized Vehicle Racing Facilities
- ~~5.20(5.21)~~ Multifamily Dwelling Units
- ~~5.21(5.22)~~ Piers, Docks, Wharves, Bridges, and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, **and Shoreland Stabilization**
- ~~5.22(5.24)~~ Renting Rooms and Apartments
- ~~5.23(5.25)~~ Restaurants
- ~~5.24(5.12)~~ Special and/or Hazardous Waste Facilities
- ~~5.25(5.28)~~ Tire Storage and Disposal
- ~~5.26(5.27)~~ Timber Harvesting within the Shoreland Zone
- ~~5.27(5.30)~~ Wireless Communication Facilities and Communication Towers

**Comment [PB10]:** Consolidation – identical in terms of existing regulations.

**Comment [DDS11]:** Move this back to under full subdivision control? As written, there is no legal process to apply both ordinances administration procedures to the same use. Moving back to subdivision allows townspeople more transparency and notification, and a more thorough and consistent review.

**Comment [PB12]:** Consolidation – identical in terms of existing regulations.

**Comment [PB13]:** 3 or more rented units

**Comment [JT14]:** Maine DEP update

**Comment [PB15]:** 2 or less apartments in one building

**Comment [DDS16]:** Alphabetical order, consolidates, and removes redundancies.

**Comment [DDS17]:** Redundancies covered in articles I, II, III, IV and contradictions to the Comprehensive Plan and MEDEP regulations.

**Comment [DDS18]:** Moved to Article III General Requirements

**Comment [DDS19]:** Consolidated with Bed & Breakfast and Renting Rooms (3 or less rented rooms)

**Comment [DDS20]:** Redundant - There were no requirements that were not covered in Article I, I, III, and IV.

- ~~5.13~~ Home Occupations
- ~~5.1~~ Accessory Buildings
- ~~5.7~~ Boarding Houses
- ~~5.23~~ Recreational Facility

ARTICLE VI. ADMINISTRATION, ENFORCEMENT & PENALTIES

- 6.1 Administering bodies and Agents
- 6.2 Enforcement
- 6.3 Permit Requirements
- 6.4 Land Use Permits

**PORTER LAND USE ORDINANCE**

- 6.5 *Land Uses and Activities Not Requiring a Land Use Permit*
- 6.6 *Permit Application*
- 6.7 *Land Use Permit Review Procedure by CEO*
- 6.8 *Land Use Permit Review Procedure by the Planning Board*
- 6.9 *Burden of Proof*
- 6.10 *Expiration of Permit*
- 6.11 *Installation of Public Utility Service*
- 6.12 *Certificate of Occupancy Required*
- 6.13 *Legal Action and Violations*
- 6.14 *Fines*
- 6.15 *Performance Guarantees*
- 6.16 *Fees*
- 6.17 *Appeals*

**ARTICLE VII. BOARD OF APPEALS**

- 7.1 *Establishment and Organization*
- 7.2 *Proceedings of the Board of Appeals*
- 7.3 *Powers and Duties of the Board of Appeals*
- 7.4 *Variances*
- 7.5 *Administrative Appeals*
- 7.6 *Appeal Procedure*
- 7.7 *Decisions of the Board of Appeals*
- 7.8 *Stay of Proceedings*
- 7.9 *Fees*

**ARTICLE VIII. DEFINITIONS AND WORD USAGE**

- 8.1 *Construction of Terms*
- 8.2 *Definitions*

## PORTER LAND USE ORDINANCE

### ARTICLE 1. GENERAL PROVISIONS

#### 1.1 Legal Authority.

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Maine Constitution, and the provisions of Title 30-A, MRSA Sections 3001-3014 (Home Rule); Title 30-A, MRSA Section 4312 et seq. (the Comprehensive Planning and Land Use Regulation Act); and Title 38 MRSA Section 435 et seq. (the Mandatory Shoreland Zoning Act).

Comment [JT21]: Correction to assure full Home-Rule Authority

#### 1.2 Purpose.

This ordinance is known as the Porter Land Use Ordinance and is referred to herein as “this ordinance.” The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; to anticipate and respond to the impacts of development in shoreland areas, as well as to maintain the present rural character of the town; to balance the rights of land owners to use their land with the rights of abutting land owners and the general public, to protect the public health, safety, and welfare, and to implement the town’s comprehensive plan, including, but not limited to: municipal operational efficiency, encouraging depressed village areas and abandoned structures to be economically viable, promoting an environment that supports local employment and economic well-being for the community, facilitating the use of greenhouses, farm stands, farmer’s markets, and community gardens, and allowing the retention and restoration of farmlands.

Comment [PB22]: Reaffirmed from language in Article VI – Should be located in Article I as the initiating purpose (not Article VI).

Comment [J23]: Porter Comprehensive Plan Goals

Comment [DDS24]: DEP Upgrades

#### 1.3 Effective Date.

##### A. Effective Date of Ordinance and Ordinance Amendments

The effective date of this ordinance or amendment is its date of adoption by town vote. Any amendment affecting the provisions of the Shoreland Zone is not effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance, or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. Any application for a permit submitted for property in the shoreland zone within the forty-five day period shall be governed by the terms of this Ordinance, or Ordinance Amendment if the Ordinance, or Ordinance amendment, is approved by the Commissioner.

##### B. ~~Repeal of Municipal Timber Harvesting Regulation - REPEALED~~

The municipal Regulation of timber harvesting activities (~~Section 5.27, Timber Harvesting within the Shoreland Zone~~) is repealed ~~on the statutory date established~~ under 38 M.R.S.A. Section 438-A, B(S), and Title 12, section 8867-B, at which time the State of Maine Department of Conservation’s Bureau of Forestry shall administer timber harvesting standards in the Shoreland zone. On the date established under 38 M.R.S.A. section 438-B(5), the following provisions of this Ordinance are repealed: When Section 5.27 is repealed, the following are also repealed:

## PORTER LAND USE ORDINANCE

- ~~In Section 3.4, Uses Permitted, "Forest Management Activities except for timber harvesting & land management roads", "Land Management Roads ", and "Timber Harvesting" in the Shoreland Residential, Resource Protection, and Stream Protection Districts;~~
- ~~All definitions in Article VIII pertaining to timber harvesting and forest management activities, including the terms: Cross-sectional area, DBH, Disruption of shoreline integrity, Forest management activities, Forest stand, Harvest area, Land management road, Licensed forester, Residual basal area, Residual stand, Skid road or skid trail, Slash, Timber harvesting, Timber harvesting and related activities, and Wind firm.~~

~~NOTE: The statutory date established under 38 M.R.S.A. section 438 B(5) is the effective date of statewide timber harvesting standards. That date is "the first day of January of the 2<sup>nd</sup> year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the statewide standards or have adopted an ordinance identical to the state wide standards." 38 M.R.S.A. section 438 B(5) further provides that "the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the statewide standards."~~

Comment [DDS25]: DEP Upgrades

### 1.4 Availability.

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

### 1.5 Severability.

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

Comment [DDS26]: A number of types of language and requirements used in LUO sections were struck down by the Maine Courts in the mid-1990's.

### 1.6 Conflicts with Other Ordinances.

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the error, omission, conflict, vagueness, incompleteness, and/or ambiguity will favor the property owner.;

Comment [J27]: Refer to MMA Manual and Common Law in conflict with this statement as written for areas outside of Shoreland (Case Law created from 1991 forward)

NOTE: The more restrictive provision shall control within two hundred fifty (250) feet of the Shoreland buffer, the more restrictive provision shall control.

Comment [DDS28]: DEP Regulation

### 1.7 Validity and Amendments.

- Any proposal for an amendment shall be made to the Planning Board in writing, stating the specific changes requested. When a change in zoning boundaries is proposed, the application shall state the nature, extent, and location of the boundary change proposal and shall be accompanied by a scale drawing showing the areas to be changed with dimensions. When an amendment is proposed by other than the Municipal Officers or the Planning Board a fee shall accompany the proposal to cover the costs of hearing and advertisements.
- Within thirty (30) days of receiving an amendment, the Planning Board shall hold a public hearing on the proposed amendment, and unless the amendment has been submitted by the Municipal Officers or by a petition, the Board shall vote whether to recommend the amendment to the Municipal Officers.

## PORTER LAND USE ORDINANCE

Notice of the hearing shall be given in accordance with Title 30-A MRSA, Section 4352, subsection 9. The Board shall ~~make submit~~ a written recommendation within (30) calendar days following the public hearing regarding passage to the Municipal Officers and Legislative Body prior to any action on the amendment by the Municipal Officers.

**Comment [J29]:** There are no time guidelines or limitations to this government process, which is not reasonable in the eyes of the courts.

C. The Municipal Officers shall hold a public hearing on the proposed amendment within (45) days of receipt of petition or Municipal Officer amendment(s), or, within (30) days of receipt of the Planning Board written recommendation(s), if the amendment(s) are proposed by the Planning Board. Notice of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven (7) days prior to the hearing. The notice shall contain the time, date, and place of hearing, and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the municipal clerk's office is adequate notice.

**Comment [J30]:** There are no time guidelines or limitations to this government process, which is not reasonable in the eyes of the courts.

D. Amendments affecting Shoreland Zoning may be amended by a majority vote of the legislative body. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment with forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit within the Shoreland Zone submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

**Comment [JM31]:** MMA Legal recommended this be rewritten to remove redundancies and to align with state statutes.

### 1.8 Official Zoning Map a Part of this Ordinance.

Districts are located and bounded as shown on the **Official Zoning Map**, which is made a part of this Ordinance. The Official Zoning Map is to be kept on file in the office of the **Town Clerk**.

### 1.9 Districts and Zoning Map.

A. To implement the provisions of this Ordinance, the Town of Porter is hereby divided into the following Districts:

1. Village District(s) - 2
2. Rural District
3. Shoreland ~~District (Zones)~~
  - a. Shoreland Residential
  - b. Stream Protection
  - c. Resource Protection
4. General Development District

B. The Official Zoning Map shall be drawn to a scale of 1 inch = 1000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

### 1.10 Certification of Zoning Map.

The Official Zoning Map shall be ~~signed by the Town Clerk certifying the date of adoption or amendment. Copies of this map may be seen in the Office of the Selectmen, certified by the attested signature of the Town Clerk and shall be located in the municipal office.~~

**Comment [DDS32]:** DEP regulation

### 1.11 Changes in the Official Zoning Map.



## PORTER LAND USE ORDINANCE

If changes are made in the Zoning District boundaries by the action of Town Meeting, such changes shall be made on the Official Zoning Map within thirty (30) days after the amendment has been adopted, or within thirty (30) days of approval by the Commissioner of the Department of Environmental Protection if Shoreland Zoning District Boundaries are involved. The change on the Official Zoning shall include an entry on the map as follows:

“On \_\_\_\_\_ (insert date) by action of the Town Meeting Warrant Article (insert number), the following change(s) was (were) made: (insert description of the change).” The Town Clerk shall sign the map immediately beneath that entry.

### 1.12 Replacement of the Official Zoning Map.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Town Meeting may adopt a new Official Zoning Map or any number of pages thereof, which supersede the prior map. The new map may correct drafting errors or omissions in the prior map but this procedure may not be used to amend the Official Zoning Map. (The Official Zoning Map is only amended by the procedure in this Section.) The replacement map created by the procedure herein shall be certified as the replacement of the Official Zoning Map by the Town Clerk. The prior Official Zoning Map shall be retained on file in the office of the **Town Clerk**.

### 1.13 Conflicts between Official Zoning Map and Ordinance Text.

If the **Official Zoning Map** conflicts with any metes and bounds descriptions of zoning district boundaries contained in this ordinance, the metes and bounds descriptions control.

### 1.14 Interpretation of Boundary Location.

Where uncertainty exists with respect to boundaries of various Districts as shown on the **Official Zoning Map**, the following rules apply:

- A. Boundaries indicated as approximately following the center lines of streets, lot lines, municipal limits, or railroad lines are to be construed as following such center lines, lot lines, municipal limits, or railroad lines;
- B. Boundaries indicated as following shorelines are to be construed as following such shorelines, and in the event of natural change in the shoreline, boundaries indicated as approximately following the center line of streams, rivers, lakes, or other bodies of water are to be construed as following such center lines;
- C. Boundaries indicated as being parallel to, or extensions of, features indicated above are to be so construed. Distances not specifically indicated on the Official Shoreland Zoning and Land Use are to be determined by the scale of the Map; and
- D. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning, or in other circumstances not covered by [Section 1.14 A –& B](#), above, it is the duty of the Board of Appeals to interpret the District boundaries.

Comment [JT33]: Clarification.

### 1.15 Division of Lots by District Boundaries.

Where a Zoning District boundary line, other than the boundary line of the Resource Protection or Shoreland Districts, divides a lot or parcel of land which was in the same ownership of record at the time such line was originally established or amendment of this Ordinance or prior Zoning Ordinances, the regulations applicable to the less restricted portion of the lot may be extended not more than **fifty (50)** feet into the more restricted portion of the lot.

PORTER LAND USE ORDINANCE

ARTICLE II NON-CONFORMING SITUATIONS

2.1 General Provisions.

- A. **Purpose.** It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Article II. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.
- B. **Transfer of Ownership.** Non-conforming structure, lots, and uses, and uses which have a non-conforming site-development may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- C. **Repair and Maintenance.** This Ordinance allows: (1) the normal upkeep and maintenance of non-conforming uses, structures, and site-developments; (2) repairs, renovations and modernizations which do not involve expansion of the non-conforming use, structure, or site-development the value of which is less than 25% of the market value of the structure before the repair; and (3) such other changes in a non-conforming use, structure, or site-development as Federal, State or Local building and safety code may require.

2.2 Non-Conforming Uses.

A. Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding ~~one~~ five (5) years, or which is superseded by a conforming use, may not again be devoted to a ~~non~~ conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. ~~This provision shall not apply to the resumption of a use of a single or two (2) family residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.~~

**Comment [J34]:** Few dynamic changes in the life situation of people (ie death, sickness, divorce, relocation, job change, tragedy) can be reasonably resolved in a year. This regulation is indifferent to the human condition and the approved Comprehensive Plan.

**Comment [DDS35]:** spelling error

**Comment [J36]:** Obsolete with this paragraph coordinated to 5 years, and Shoreland separated and more stringent below.

NOTE: Within two hundred fifty (250) feet of Shoreland buffer: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one (1) year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use.

**Comment [DDS37]:** DEP regulations. DEP noted ordinance restrictions are causing buildings of historical significance in the village districts to be infeasible for use, in direct conflict with the Comprehensive Plan.

A.  
**B. Change of Use.** ~~If approved by the Planning Board, a~~ Any existing non-conforming use may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the district than the existing non-conforming use. In their determinations of appropriateness the Planning Board ~~or CEO, in accordance with the procedures of this Ordinance,~~ shall find that future adverse impacts from changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances will not be increased and that there will be a measurable, overall reduction. In the shoreland zone, the Planning Board shall also determine the new use has no greater adverse impact on the subject and adjacent properties and resources than the former use. In determining that no greater adverse impact will occur, the Planning Board ~~or CEO shall require be provided~~ written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, and archaeological and historic resources.

**Comment [J38]:** Clarification and redundant removal - There are conditions where the CEO is required to evaluate a Use and conditions where the Planning Board is required to evaluate a Use within this Ordinance. DEP regulations were coordinated with this section.

**Comment [J39]:** Clarification - There are conditions where the CEO is required to evaluate a Use and conditions where the Planning Board is required to evaluate a Use within this Ordinance.

**Comment [DDS40]:** Clarification and coordination of LUO.

C. **Expansions.** A non-conforming use of land may not be extended into any part of the remainder of a lot of land. A non-conforming use of land which is incidental to or accessory to a non-conforming use of a

PORTER LAND USE ORDINANCE

building or land shall be discontinued at the same time the non-conforming use of a building or land is discontinued. In the case of earth removal operations, the removal of earth may not be extended as a non-conforming use beyond the required setback lines of the specific parcel upon which such operations were in progress when such use became non-conforming. Adjacent parcels in the same or different ownership are eligible for exemption under the non-conforming use provisions unless earth removal operations were in progress on these parcels before these provisions were enacted.

**A. NOTE:** The provision of off-street parking, or making other improvements to the site which lessen the impact of the use, including, but not limited to, erosion and sedimentation control, and vegetative screening and buffering, are not considered an expansion of the use.

2.3 Non-Conforming Structures.

**A.) Reconstruction or Replacement.** If a non-conforming structure is destroyed by fire or other involuntary action, it may be replaced as close to the lot line as the original structure provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

Any non-conforming structure which is located less than the required setback from the high water line of a water body, tributary stream or upland edge of a wetland and which is destroyed by more than 50% of the market value of the structure before such destruction may be reconstructed or replaced provided the reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board, CEO, or its designee in accordance with the purposes of this ordinance.

If the reconstructed or replacement structure is less than the required Shoreland setback it shall not be any larger than the original structure, except as allowed pursuant to Section 2.3.B.1 (Expansions - below), as determined by the non-conforming floor area and volume footprint of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume footprint of the original structure can be relocated or reconstructed beyond the required Shoreland setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 2.3.C.D (Relocation - below).

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, damaged or destroyed by fire or other involuntary action by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one (1) year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board, CEO, or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and of adjacent properties, the location of the septic system and other on site soils suitable for septic systems, the type and amount of vegetation to be removed to accomplish the

Comment [J41]: Coordination of DEP Upgrades with current LUO sections.

Comment [J42]: DEP Upgrades

Comment [J43]: DEP Upgrades

Comment [J44]: LUO Coordination with DEP upgrades

Comment [DDS45]: Clarification and coordination of the LUO language

## PORTER LAND USE ORDINANCE

~~relocation, and, in addition to the criteria in Section 2.3 D (Relocation) below, the physical condition and type of foundation present, if any.~~

**B.) Expansions.** All new principal and accessory structures, excluding functionally water dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Article III Section 3.3 General Requirements. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if the addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs ~~1-a~~ and ~~2-b~~ below.

Comment [J46]: DEP Upgrades and coordination with LUO

~~1. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high water line of a water body or tributary stream or upland edge of a wetland, that portion of the structure may not be expanded in floor area or volume by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 2.3.A, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.~~

Comment [J47]: DEP Upgrades

~~2. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation shall be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, or its designee, basing its decision on the criteria specified in Section 2.3.C, Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 2.3.B.1 above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.~~

Comment [J48]: DEP Upgrades

(a) Expansion of any portion of a structure within twenty five (25) feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

(b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than twenty-five (25) feet from the normal highwater line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by **Section 2.3B (Expansions)**.

(i) The maximum total footprint for the principal structure may not be expanded to a size greater than eight hundred (800) square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than fifteen (15) feet or the height of the existing structure, whichever is greater.

## PORTER LAND USE ORDINANCE

(c) All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by **Section 2.3 B or Section 2.3 B (a)**, above.

(i) For structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than one thousand (1,000) square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than twenty (20) feet or the height of the existing structure, whichever is greater.

(ii) For structures located less than 100 feet from the normal high-water line of a great pond ~~classified as GPA~~ or a river flowing to a great pond ~~classified as GPA~~, the maximum combined total footprint for all structures may not be expanded to a size greater than one thousand five hundred (1,500) square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than twenty-five (25) feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than seventy-five (75) feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in **Section 2.3 B (b)(i) and Section 2.3 B (c)(i)**, above.

**Comment [J49]:** More stringent than DEP, typical to LUO regarding GPA - ok.

(iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than two hundred fifty (250) feet from the normal highwater line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than one thousand (1,500) square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than twenty five (25) feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in **Section 2.3 B (b)(i) and Section 2.3 B (c)(i)**, above.

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

C.) **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in **Section 2.3 D (Relocation)**, below. If the completed foundation does not extend beyond the exterior

PORTER LAND USE ORDINANCE

dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

A structure which is less than the required setback from a property line or the normal high water line of a waterbody, tributary stream, or upland edge of a wetland may not be expanded toward the property line or the waterbody, tributary stream, or wetland.

**Comment [J50]:** DEP indicated "Notes" are not to be inserted into regulations and are for reference. This is covered thoroughly throughout the LUO and is redundant.

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

**Comment [DDS51]:** Clarification and coordination of the LUO language.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board, CEO, or its designee, shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board, CEO, or its designee shall require replanting of native vegetation to compensate for the destroyed vegetation, in accordance with Article IV section 4.2 – Revegetation Requirements within Shoreland. In addition, the area from which the relocated structure was removed shall be replanted with vegetation. Replanting shall be required as follows:

**Comment [DDS52]:** Clarification and coordination of the LUO language.

**Comment [DDS53]:** Clarification and coordination of the LUO language.

**Comment [DDS54]:** DEP Upgrades

**Comment [DDS55]:** Redundant to #2

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

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

2. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees or a combination thereof. Notify the CEO of any intended cellar hole/foundation salvage and treatment intentions.

**Comment [J56]:** Comprehensive Plan

**E. ~~D.~~ Change of Use of a Non-Conforming Structure.** The use of a non-conforming structure may not be changed to another use unless the Planning Board or CEO, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

**Comment [J57]:** Both conditions exist in the ordinance - coordination of regulations

## PORTER LAND USE ORDINANCE

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

### 2.4 Non-Conforming Lots.

- A. **Non-Conforming Lots.** A vacant non-conforming lot may be built upon provided that such lot is in single or joint ownership of record at the time of adoption or amendment of this ordinance and not contiguous with any other vacant land in the same ownership, and that all provisions of this ordinance except lot size and frontage can be met. Variance of setback or other requirements not involving area or width is obtained only by action of the Board of Appeals.
- B. If a non-conforming lot has a structure on it, the structure may be enlarged in conformity with all dimensional standards of the ordinance except lot area and frontage and may be used for any use permitted in that District. Variance of dimensional standards is obtained only by action of the Board of Appeals.
- C. **Contiguous Built Lots.** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of adoption or amendment of this ordinance, if all or part of the lots do not meet the area and dimensional requirements of this ordinance, and-or if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, providing that the **State Minimum Lot Size Law (12 M.R.S.A. Sections 4807-A through 4807-D)** and **Subsurface Wastewater Disposal rules** are complied with.  
If two or more principal uses or structures existed on a single lot of record, each may be conveyed separately if the above referenced State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with. When such lots are divided each lot thus created shall be as conforming as possible to the dimensional requirements of this Ordinance.
- D. **Contiguous Lots – Vacant or Partially Built.** If two or more contiguous lots are in single or joint ownership at the time of adoption or amendment of the ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and-or if two or more of the lots are either vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional standards except where rights have vested, or the lots have frontage on parallel streets.
- E. **NOTE:** In the Shoreland Zone, if two or more contiguous lots are in single or joint ownership at the time of adoption or amendment of the Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and-or if (2) two or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional standards.

### 2.5 Non-Conforming as to Performance Standards/Site Development.

A use which is non-conforming as to performance standards and/or site development, including, but not limited to, parking spaces, loading spaces, screening, erosion and sedimentation control, lighting, hours of operation, and noise, may not expand, the structure may not be enlarged, and the structure may not be altered to expand the use, unless all non-conforming performance standards and the site development are brought into conformance.

### 2.6 Vested Rights.

## PORTER LAND USE ORDINANCE

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

### ARTICLE III DISTRICTS AND DIMENSIONAL REQUIREMENTS

#### 3.1. Designation of Districts.

The town is divided into the following districts shown on the official Porter Zoning Map.

- A. Village District(s) - 2
- B. Rural District
- C. Shoreland District Zones
  - a. Shoreland Limited Residential
  - b. Stream Protection
  - c. Resource Protection
- D. General Development District

Comment [JT58]: Per Official Zoning Map

Unless otherwise set forth on the official maps, district boundary lines are centerlines of roads and setbacks from waterbodies. The depiction of the shoreland and resource protection districts on the Official Shoreland Zoning Map is merely illustrative of their general location. The boundaries of these districts are determined by measurement of the distance indicated on the map from the high-water line of the water body or the upland edge of the wetland, regardless of the location of the boundary shown on the map. Where uncertainty exists as to the exact location of district boundary lines, the Porter Board of Appeals governs.

The Shoreland Limited Residential District Zone includes uses listed in Article III Section 3.4 ~~those areas suitable for residential and recreational development. It includes areas within the two hundred fifty (250) foot Shoreland Buffer that may be suitable for specific development, other than those in the Resource Protection District, or Stream Protection District.~~

Comment [JT59]: Per Official Zoning Map

Comment [DDS60]: Clarification and coordination of LUO into an efficient table

Comment [J61]: Clarification to remove confusion.

Comment [JT62]: Per Official Zoning Map

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

**Resource Protection District Zone** includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the Shoreland District, exclusive of Stream Protection:

Comment [JT63]: Per Official Zoning Map

- 2.1. Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high"



## PORTER LAND USE ORDINANCE

value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river.

NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-Z, requires the Department of Environmental Protection to designate areas of “significant wildlife habitat”. Significant wildlife habitat includes:

Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of inland Fisheries and Wildlife; and shorebird nesting, feeding and staging areas as defined by the Department of Inland Fisheries and Wildlife.

**Comment [J64]:** DEP stated should not be incorporated into a municipalities locally adopted ordinance. But it is helpful. Retain.

- 3-2. Flood-plains along rivers and flood-plains along artificially formed great ponds along rivers, defined by the 100 year flood-plain as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood or record, or in the absence of these, by soil types identified as recent flood-plain soils.
- 4-3. Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.
- 5-4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

~~NOTE: These areas usually consist of forested wetlands abutting water bodies and non-forested wetlands.~~

**Comment [J65]:** DEP stated should not be incorporated into a municipalities locally adopted ordinance.

- 6-5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

**General Development District:** ~~The General Development District includes an area of land suitable for the following types of development:~~

1. ~~Areas of two or more contiguous acres with direct access to Ossipee Trail (Route 25) devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:~~
  - a. ~~Areas devoted to manufacturing, fabricating or other industrial activities;~~
  - b. ~~Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and~~
  - c. ~~Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks and fairgrounds.~~

**PORTER LAND USE ORDINANCE**

- d. ~~Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses. Includes Uses listed in Article III Section 3.4.~~

**Comment [J66]:** Prescriptive and leads to error interpretations and confusion between table and text - consolidate to Article III Table 3.4

The southerly border of the District is five hundred (500) feet northerly of the center line of Ossipee Trail (Route 25) extending 2500 feet to the north with a easterly boundary at the Bickford Pond Road extending west to the New Hampshire line, excepting any areas designated Shoreland Residential, Resource Protection or Stream Protection within these boundaries.

**3.2. Dimensional Standards.**

	Village District	Rural District	Shoreland Residential	Resource Protection	General Development
<b>Minimum Lot Area (Sq.ft.)</b>					
Without sanitary sewers Residential, within 250 ft	30,000	88,000	88,000	(A)	88,000
Of Ossipee River (G)	40,000		88,000 (G)	(A)	
Governmental, Institutional, Commercial, or Industrial within 250 ft					
Of Ossipee River	60,000		88,000 (G)	(A)	
<b>Minimum Area per Family (Sq.ft.)</b>					
Without sanitary sewers Residential, within 250 ft	30,000	88,000	88,000	(A)	88,000
Of Ossipee River (G)	40,000		88,000 (G)	(A)	
<b>Minimum Street and Shore Frontage (Ft.) (F)</b>					
on a street	100 (F)	300 (F)	300 (F)	(A)	300 (F)
on waterbodies or wetlands (if applicable):					
residential (B) per dwelling unit	200	200	200	(A)	N/A
commercial (B) per principal structure	300	N/A	300	N/A	N/A
<b>Minimum Setbacks (ft.)</b>					
Front	50 (C,D)	50 (C)	50 (C)	(A)	50 (C)
Side	20	50	50	(A)	50
Rear	20 (E)	50	50	(A)	50
from high water line of great ponds	100	100	100	250 (A)	N/A
from high water line of other water bodies					
or upland edge of wetland	75	75	75	250 (A)	N/A

**Comment [J67]:** Comprehensive Plan and DEP-State Guidelines

**Comment [J68]:** conflicts with MEDEP guidance and Comp Plan

**Comment [J69]:** Conflicts with the Comprehensive Plan

**Comment [J70]:** Redundant

**Comment [J71]:** Conflict with Comprehensive Planning

**Comment [J72]:** Subjective, vague, and in conflict with Comprehensive Planning and DEP guidance indicating this conflict in the LUO

**Comment [J73]:** conflicts with zoning and comp plan

**Comment [J74]:** conflicts with zoning and comp plan

**Comment [J75]:** Not directing growth per Comprehensive Plan.

**Comment [J76]:** Setbacks should accommodate pre-existing historically notable and significant structures, and accommodate more dense economics in these districts, the whole premise behind comprehensive planning, goals, and strategies.

**Comment [J77]:** Not directing growth per the Comprehensive Plan.

**Comment [J78]:** 250 feet - There are resource protection areas

**Comment [J79]:** 250 feet - There are resource Protection Areas

**Comment [J80]:** Conflicts with own Ordinance, Porter Comprehensive Plan, DEP-State regulations.

**Comment [PB81]:** Consolidated into an easier to read chart below.

**3.2.**

**PORTER LAND USE ORDINANCE**

3.2. (TABLE) - Dimensional Standards for Primary Structures	Village District	Rural District	Shoreland Zones			General Development
			Shoreland Limited Residential	Stream Protection	Resource Protection	
<b>Minimum Lot Area (SQ FT)</b>				Select Appropriate District. (Village, Rural, or General Development)		
Without sanitary sewers (per family or by Use) Residential or Use (not high impact), within 250 ft of Ossipee River (G)	<del>30,000</del> 20,000	88,000	88,000	NA	(Note A)	<del>88,000</del> 20,000
Governmental, Institutional, or High Impact USES Commercial, or High Impact Industrial within 250 ft of Ossipee River	40,000 (F)	NA	88,000 (F)	NA	(Note A, F)	NA
	60,000	NA	88,000 (G)	NA	(Note A)	NA
<b>Minimum Street and/or Shore Frontage (FT) (F)</b>				Select Appropriate District. (Village, Rural, or General Development)		
On a street (E)	100 (Note E)	300 (Note E)	300 (Note E)	NA	(Note A)	<del>300</del> 100 (Note E)
On waterbodies or wetlands (if applicable): Residential per dwelling unit and Other Uses (not high impact) (Note B)	200	200	200	NA	(Note A)	NA
- Government, Institutional, or High Impact USES Commercial or High Impact Industrial per principal structure (Note B)	300	NA	300	NA	NA (Note A)	NA
<b>Minimum Setbacks (FT)</b>				Select Appropriate District. (Village, Rural, or General Development)		
Front	<del>50</del> 25 (C, D)	<del>50</del> 25 (C)	<del>50</del> 25 (C, D)	NA	(Note A)	50 (E)
Side	20 (D)	50	50	NA	(Note A)	<del>50</del> 30
Rear	20 (E) (D)	50	50	NA	(Note A)	<del>50</del> 30
Distance from high water line of great ponds	100	100	100	NA	250 (Note A)	NA 250
Distance from high water line of other water bodies or upland edge of wetland	75	75	75	NA	250 (Note A)	NA 250

**Comment [PB82]:** This chart clarifies districts (a problem that occurred in another town recently), recognizes that there is rural district within 250 feet of the Ossipee (under regulations established for limited residential), removes redundancies, coordinates with the ordinance itself, comprehensive plan, DEP regulations, State laws, recognizes that there are resource protection areas in the General Development Zone, and that the GDZ is very similar to the other districts, making directing and managing growth ineffective.

**Comment [PB83]:** Frontage requirement drives residences in 90% of the tax maps into water protection areas with a 50' setback (actually 75 feet from centerline of road. 25' (50 feet from roadway centerline is a more reasonable approach to mitigate risk and utilize pre-existing developed areas, in the village and in rural areas.

**Comment [PB84]:** SLR Zone "G" reference was deleted in 1995, but not reflected in the ordinance.

**Footnotes to Table of Dimensional Standards**

- (A) No portion of any lot created after the effective date of adoption or amendment of this ordinance and lying within the Resource Protection District may be used to meet the dimensional requirements of other Districts in which the remainder of the lot is situated. Where a residential structure is in existence on the effective date of adoption or amendment of this ordinance, a lot containing such structure may not be created which does not contain a minimum of 88,000 square feet.
- (B) A lot abutting a lake, pond, river, or stream in any District shall have a minimum shore frontage measured in a straight line between the points of intersection of the side lot lines with the shoreline at normal high water elevation.

PORTER LAND USE ORDINANCE

~~(C)~~ A front yard abutting a street or road shall have a minimum depth, measured from the edge of the right-of-way according to the above table. The depth of any yard abutting a road or any waterbody shall conform to the front yard requirements.

Comment [J85]: This conflicts with extensive MEDEP guidance on land treatment within the 250 foot buffer. Additionally, should a residential owner choose to provide parking in front of their structure, 25' feet applies for primary structures, 10'-20' for subordinate structures based on district (not 50).

~~(C)~~ Within Porter Town Tax Maps U-1, U-2, U-4, U-5, U-7, U-8, w Where a proposed structure is abutted on both sides by existing structures whose setback from the road are less than fifty (50) feet, the setback of the proposed structure may be reduced to that of the abutting structures upon approval of the Planning Board.

Comment [J86]: These areas have significant village district overlays under the shoreland residential district, consideration for historically notable and significant village make-up should be considered, protected, and fostered.

~~(D)~~ A thirty (30)-foot setback is required for new commercial or non-for-profit structures abutting an existing residential use.

Comment [J87]: Redundant, or must include the CEO for non-PB administration uses.

~~(E)~~ 1- New lots which abut a public or private street as defined by this Ordinance, over which the public has an easement of travel, shall have a minimum road frontage as specified in Table 3.2, unless exempted in 2 below:

Comment [J88]: Include non-for-profits to coordinate and clarify LUO requirements.

2- New lots not abutting a road, which are over ten (10) acres in area, are exempt from the road frontage requirements of this ordinance.

~~(F)~~ (F.) Lots in the Village Districts of Kezar FallsPorter within two hundred fifty (250) ft of the Ossipee River (Porter Town tax maps U-1, U-2, and U-4) shall be exempted from this minimum standard. They shall, however, meet the Village District standard of 30,000 sq. ft. New single family residential structure – See Article VI Section 6.8 for exemption regulations.

Comment [J89]: Kezar Falls is no longer legally incorporated

Notes and Exceptions in Calculating and Measuring Dimensional Standards

(1) ADA Considerations: The Code Enforcement Officer may grant a waiver of the minimum setback requirements to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The CEO shall restrict any waiver granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The CEO may impose conditions on the variance, including limiting the waiver to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Notwithstanding Article VII Section 7.4C, the Board of Appeals, or the CEO if authorized in accordance with 30-A MRSA section 4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permits issued pursuant to this subsection is subject to Article VII Section 7.4.G and Article VII Section 7.6

Comment [DDS90]: DEP Upgrades

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

~~(3)~~ The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirements for a lot with the proposed use.

## PORTER LAND USE ORDINANCE

~~(3)~~(4) Within Shoreland: On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for storage of yard tools and similar equipment. Such accessory structures shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case may the structure be located closer to the shoreline or tributary stream than the principal structure.

**Comment [JT91]:** Clarification of State Regulations with respect to Shoreland

~~(4)~~(5) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils.

~~(5)~~(6) The total footprint area of all structures, parking lots and other non-vegetated surfaces, including land area previously developed, within the Shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the Shoreland zone.

~~(6)~~(7) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all the following conditions are met:

The site has been previously altered and an effective vegetated buffer does not exist;

~~The wall(s) is (are)~~Any wall is to be at least twenty-five (25) feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

**Comment [DDS92]:** Clarification - confusing

The site where the retaining wall will be constructed is legally existing lawn or is site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

The total height of the wall(s), in the aggregate are no more than 24 inches;

Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils;

The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

A vegetated buffer area is established within twenty-five (25) feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area shall meet the following characteristics:

The buffer shall include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area shall be supplemented with leaf or bark mulch;

Vegetation plantings shall be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

Only native species may be used to establish the buffer area;

A minimum buffer width of fifteen (15) feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

A footpath not to exceed the standards in Article IV Section 4.2 B.2.(a)45(P)(2)(a), may traverse the buffer if: There is no cleared opening greater than the two hundred fifty (50) square feet in the forest canopy (or other existing woody vegetation if the forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

**Comment [J93]:** Coordination of MEDEP regulations with this Ordinance references and locations

NOTE: If a wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body or tributary stream, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

**Comment [J94]:** DEP stated should not be incorporated into a municipalities locally adopted ordinance, but it is helpful. Retain.

## PORTER LAND USE ORDINANCE

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

### 3.3 General Requirements.

The following general requirements apply to all Districts.

A. Principle and Accessory Structures – All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds and rivers that flow to great ponds, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or upland edge of a wetland, except that in the General Development District the setback from the normal high-water line shall be at least **two hundred fifty (250) feet, horizontal distance. In the Resource Protection District the setback requirement shall be two hundred fifty (250) feet, horizontal distance, except for structures, roads, parking spaces, or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.**

**Comment [J95]:** DEP Upgrade coordinated with Porter specific zoning.

#### A.B. Multiple Principal Buildings

If more than one dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is to be constructed or established on a single parcel of land, dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

C. Accessory buildings shall be set back at least **ten (10) feet** from the side and rear lot lines in the Village District, **twenty (20) feet** in all other districts, unless noted otherwise to protect water sources, -or as required for uses specified in Article V uses (Reference Article IV Section 4.2 - Landscape Buffers & Screening requirements for specific uses).

**Comment [DDS96]:** Relocated from Article V - This is a General Requirement item (Article III), with reference to specific uses and simplified to a standard setback coordinated with the building code.

~~B.D.~~ Farmstands (as defined in Article III Section 3.2 and Article VIII Definitions) that are less than 100 square feet may be placed no less than ten (10) feet from a street right-of-way.

E. Specific Uses may require building and impervious restrictions in relation to lot size (Reference Article V Specific Uses)

**Comment [DDS97]:** Important to introduce this earlier into the Ordinance for various uses to be checked against.

F. Reference the Town of Porter Building Code for "POOLS".

**Comment [J98]:** Recommend incorporating this, as it is confused with accessory and has different setback, screening, buffering requirements.

G. Unless specified otherwise, Subdivision Regulation Design Guidelines (*Article 12 Section 12.2 -Traffic conditions*) are to be referenced for all road construction of subdivided parcels within the municipality, regardless of type (Exempt, Minor, or Major).

#### ~~E.H.~~ Required Yard Spaces Serve Only One Lot

PORTER LAND USE ORDINANCE

Except as may be allowed in a cluster development, no part of the yard or other open space required on any lot for any building may be included as part of the yard or open space similarly required for another building or lot.

D.I. **Visibility at Corner Lots and Driveways onto Public Roads**

All corner lots shall be kept free from visual obstructions for a distance of twenty-five (25) feet measured along the intersecting street lines.

Comment [DDS99]: Clarification and consolidation

E.J. **Building Height**

A building may not exceed thirty five (35) feet in height as defined by this ordinance. Features of buildings and structures, such as cupolas, chimneys, towers, ventilators, and spires which have no floor area may exceed thirty five (35) feet in height, but shall be set back from the nearest lot line a distance not less than the height of such features or structure, unless a greater setback is required by other provisions of this ordinance.

"Height of a structure" means the vertical distance between the mean original grade at the downhill side of the structure, prior to construction, and the highest point of the structure, excluding cupolas, chimneys, steeples, antennas, or similar appurtenances that have no floor area.

Cupolas. For the purpose of determining the height of a structure, a cupola, dome, widow's walk or similar feature may be added to a legally existing conforming structure if:

- A. The legally existing conforming structure is not located in a Resource Protection District or a stream protection district as defined in guidelines adopted by the board; and
- B. The cupola, dome, widow's walk or other similar feature:
  - (1) Does not extend beyond the exterior walls of the existing structure;
  - (2) Has a floor area of fifty three (53) square feet or less; and
  - (3) Does not increase the height of the existing structure, as determined under section 436-A, subsection 7-A, by more than seven (7) feet.

For purposes of this subsection, "cupola, dome, widow's walk or other similar feature" means a nonhabitable building feature mounted on a building roof for observation purposes.

Comment [J100]: DEP UpgradesMEDEP 2015 Chapter 1000 updates

F.K. **Sedimentation and Erosion Control**

Sedimentation and erosion control plans will be reviewed by the Oxford County Soil and Water Conservation District whenever there is significant risk of sedimentation or erosion or upon request of the Planning Board, CEO, or its designee, in accordance with this Ordinance.

Comment [DDS101]: Clarification and coordination of the LUO language.

G.L. **Mixed Uses Allowed**

More than one use is allowed on lots meeting the minimum lot area of standard Article III Section 3.2 Dimensional Standards 3.2-(above), and on non-conforming lots of record, except for shoreland areas where state guidelines require that the lot size and frontage be met for each principal use on the property.

H. **Wireless Communication Facilities and Communications Towers**

From the finished grade, the maximum height of a communications tower shall be 199 feet including antenna. The height of an antenna shall be included in the total height limitation as allowed for a communications tower.

Comment [J102]: Redundant to Article V - Relocated to section on Wireless in Article V

I.M. **Creation or Division of Lots**

## PORTER LAND USE ORDINANCE

Effective March 18, 2006, no lot shall be divided or created, unless in conformity with [Article III](#) Section 3.2 and all other applicable provisions of this Ordinance, at the time of such division or creation. In Shoreland zoned areas, no lot shall be divided or created after March 21, 1992 unless in conformity with [Article III](#) Section 3.2 and all other applicable provisions of this Ordinance, at the time of such division or creation.

### N. Relation of Proposed Building to Environment & Preservation of Landscape

Proposed structure and changes in existing structures should consider the terrain and existing buildings in the vicinity that have a visual relationship with the proposed building(s). The landscape should also be preserved in its natural state, as is practicable, by minimizing tree removal, and maintaining grade changes in keeping with the general appearance of the neighboring developed areas. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features, solar access, or other buildings. In areas with a high concentration of historic properties, consider utilizing exterior building materials and designs with architectural compatibility in mind, in terms of scale, height, window size, and roof pitch to the surrounding properties.

**Comment [J103]:** Existing Articles 4.2 I and 4.2 J consolidated and moved to Article III General Requirements

Weather protection papers, felts, membranes, or tarps on exterior walls and roofs cannot be left in place on a primary dwelling for more than twelve (12) months of damage or Certificate of Occupancy without being completely hidden from view by a finished exterior wall covering or roofing assembly.

**Comment [J104]:** A competent and reasonable requirement

### O. Drones Dimensional use in relation to Building Heights

The "no-fly" zone of drones over private property (without property owner permission) in any District within the Town of Porter is forty-two (42) feet, measured as the vertical distance between the mean original grade at the downhill side of the structure, prior to construction, and the highest point of the structure, including cupolas, chimneys, steeples, antennas, or similar appurtenances that have no floor area.

**Comment [PB105]:** A reasonable introduction to an increasingly prevalent issue regarding property and privacy rights. 83 feet is the maximum no-fly zone tested in case law to-date. Property owners have exclusive control of the immediate reaches of the enveloping atmosphere and own at least as much of the space above the ground as they can occupy or use in connection with the land. 42 feet reasonably encompasses the maximum height of structures and appurtenances in this ordinance and defends property and privacy rights.

### **3.4. Uses Permitted.**

The following uses are permitted in the designated land use districts, supported by the Comprehensive Plan, and subject to the general performance standards in Section IV and the specific performance standards in Section V, standards of this Ordinance, as applicable:

**Comment [DDS106]:** Coordination and simplification

#### **VILLAGE DISTRICTS;**

Land uses permitted in the Village District, in conformance with General Performance Standards in Section IV and, where appropriate, the Specific Performance Standards of Section V are as follows:

Key: "A" means the use is allowed without a permit but shall comply with all applicable land use standards.  
"C" means the use requires a permit authorized by the Code Enforcement Officer.  
"LPI" means the use requires a permit authorized by the Plumbing Inspector  
"P" means the use requires a permit authorized by the Planning Board.

P— Adult Business  
P— Aquaculture  
P— Assisted Living Facility



**PORTER LAND USE ORDINANCE**

- ~~P— Automobile graveyard and junkyard~~
- ~~P— Bed and breakfast~~
- ~~P— Boarding house~~
- ~~P— Civic and social service~~
- ~~A— Clearing or removal of vegetation for activities other than timber harvesting~~
- ~~P— Cluster development~~
- ~~P— Day care centers~~
- ~~C— Driveway Access to Public or Private Street~~
- ~~P— Educational Facility~~
- ~~A— Emergency operations~~
- ~~A— Essential services~~
  - ~~a.— Roadside distribution lines (34.5kV and lower)~~
  - ~~b.— Other essential services~~
- ~~C— Filling and earth moving of ≥10 cubic yards~~
- ~~A— Filling and earth moving of <10 cubic yards~~
- ~~A— Fire prevention activities~~
- ~~A— Forest management activities except for timber harvesting & land management~~
  - ~~Roads (See Section 1.3B)~~
- ~~P— Garage and yard sales~~
- ~~P— Governmental and Institutional~~
- ~~P— Health Care Facility~~
- ~~P— Home occupations~~
- ~~P— Hospitals~~
- ~~P— Hotel~~
- ~~P— Individual private campsite~~
- ~~P— Kennel and veterinary hospital~~
- ~~A— Land management roads (See Section 1.3B)~~
- ~~A— Mineral exploration<sup>4</sup>~~
- ~~A— Mineral extraction<sup>4</sup>~~
- ~~P— Minor earthmoving activities~~
- ~~P— Mobile home park~~
- ~~A— Motorized vehicular traffic on existing roads and trails~~
- ~~A— Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking~~
- ~~P— Nursing Home~~
- ~~P— Parking facilities~~
- ~~P— Parks~~
- ~~P— Private club~~
- ~~P— Places of worship~~
- ~~LPI— Private sewage disposal systems for allowed uses~~
- ~~Principal Structures and uses~~
  - ~~C— One and two family residential~~
  - ~~P— Multi-unit residential~~
  - ~~P— Commercial, Low impact not otherwise listed~~
  - ~~P— Industrial, Low impact not otherwise listed~~
  - ~~P— Governmental and Institutional~~
  - ~~P— Small non-residential facilities for educational, scientific, or nature~~

## PORTER LAND USE ORDINANCE

~~interpretation purposes~~

- ~~P Public and private recreational areas involving minimal structural development~~
- ~~P Restaurants~~
- ~~P Recreational facility~~
- ~~C Road construction, not in subdivisions~~
- ~~P Road construction in Subdivisions~~
- ~~A Service drops, as defined, to allowed uses~~
- ~~C Signs~~
- ~~C Structures accessory to allowed uses~~
- ~~A Soil and water conservation practices~~
- ~~P Special and/or hazardous waste facility~~
- ~~A Surveying and resource analysis~~
- ~~P Timber harvesting (See Section 1.3B)~~
- ~~A Wildlife management practices~~
- ~~P Wireless Communication Facilities and Communications Towers~~
- ~~C Uses similar to allowed uses~~
- ~~C Uses similar to allowed uses requiring a CEO permit~~
- ~~P Uses similar to allowed uses requiring a PB permit~~

### **RURAL DISTRICT**

~~Land uses permitted in the Rural District, in conformance with the General Performance Standards in Section IV and, where appropriate, the Specific Performance Standards in Section V, are as follows:~~

- ~~Key: "A" means the use is allowed without a permit but shall comply with all applicable land use standards.~~  
~~"C" means the use requires a permit authorized by the Code Enforcement Officer.~~  
~~"LPI" means the use requires a permit authorized by the Plumbing Inspector~~  
~~"P" means the use requires a permit authorized by the Planning Board.~~

- ~~P Agriculture~~
- ~~P Animal husbandry~~
- ~~P Antique stores~~
- ~~P Aquaculture~~
- ~~P Assisted Living Facility~~
- ~~P Auto repair shops~~
- ~~P Automobile graveyard and junkyard~~
- ~~P Bed and breakfast~~
- ~~P Boarding house~~
- ~~P Cabinetry and woodworking shops~~
- ~~P Campground~~
- ~~P Carpentry and building contractors~~
- ~~A Clearing or removal of vegetation for activities other than timber harvesting~~
- ~~P Cluster development~~
- ~~LPI Conversions of seasonal residences to year-round residences~~
- ~~P Day care centers~~
- ~~C Driveway Access to Public or Private Street~~
- ~~P Educational Facility~~
- ~~A Emergency operations~~
- ~~A Essential services~~

**PORTER LAND USE ORDINANCE**

- a. Roadside distribution lines (34.5kV and lower)
- b. Other essential services
- C Farm produce stands
- C Filling and earth moving of  $\geq 10$  cubic yards
- A Fire prevention activities
- A Filling and earth moving of  $< 10$  cubic yards
- A Forest management activities except for timber harvesting & land management
- Roads (See Section 1.3B)
- A Garage and yard sales
- P Garden nurseries
- P Governmental and Institutional
- P Grain and feed stores
- P Ground and spring water extraction
- P Health Care Facility
- P Home occupations
- P Hospitals
- C Individual private campsite
- P Kennel and veterinary hospital
- A Land management roads (See Section 1.3B)
- A Mineral exploration<sup>4</sup>
- A Mineral extraction<sup>4</sup>
- C Minor earthmoving activities
- A Motorized vehicular traffic on existing roads and trails
- P Neighborhood grocery and convenience stores
- A Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking
- P Nursing Home
- P Parking facilities
- Principal Structures and uses
  - C One and two family residential
  - P Small non-residential facilities for educational, scientific, or nature interpretation purposes
- LPI Private sewage disposal systems for allowed uses
- P Public and private recreational areas involving minimal structural development
- P Recreational facility
- C Road construction, not in subdivisions
- P Road construction, subdivisions
- P Sawmills
- A Service drops, as defined, to allowed uses
- C Signs
- A Soil and water conservation practices
- C Structures accessory to allowed uses
- A Surveying and resource analysis
- A Timber harvesting (See Section 1.3B)
- A Wildlife management practices
- P Wireless Communication Facilities and Communications Towers
- C Uses similar to allowed uses

**PORTER LAND USE ORDINANCE**

~~C—Uses similar to allowed uses requiring a CEO permit~~

~~P—Uses similar to allowed uses requiring a PB permit~~

**~~SHORELAND RESIDENTIAL DISTRICT:~~**

~~Land uses permitted in the Shoreland Residential District adjacent to great ponds, in conformance with the General Performance Standards in Section IV and, where appropriate, the Specific Performance Standards in Section V, are as follows:~~

~~Key: “A” means the use is allowed without a permit but shall comply with all applicable land use standards.~~

~~“C” means the use requires a permit authorized by the Code Enforcement Officer.~~

~~“LPI” means the use requires a permit authorized by the Plumbing Inspector~~

~~“P” means the use requires a permit authorized by the Planning Board.~~

~~P—Agriculture~~

~~P—Animal husbandry~~

~~P—Aquaculture~~

~~C—Clearing or removal of vegetation for activities other than timber harvesting~~

~~LPI—Conversions of seasonal residences to year round residences~~

~~P—Day care centers~~

~~C—Driveway Access to Public or Private Street~~

~~P—Educational Facility~~

~~A—Emergency operations~~

~~Essential services~~

~~A—Roadside distribution lines (34.5kV and lower)<sup>9</sup>~~

~~C—Non roadside or cross country distribution lines involving ten poles or less in the Shoreland zone~~

~~P—Non roadside or cross country distribution lines involving eleven or more poles in the Shoreland zone~~

~~P—Other essential services~~

~~P—Farm produce stands~~

~~A—Filling and earth moving of <10 cubic yards~~

~~C—Filling and earth moving of ≥10 cubic yards~~

~~A—Fire prevention activities~~

~~A—Forest management activities except for timber harvesting & land management roads (See Section 1.3B)~~

~~P—Governmental and Institutional~~

~~P—Home occupations~~

~~A—Land management roads (See Section 1.3B)~~

~~P—Marinas~~

~~A—Motorized vehicular traffic on existing roads and trails~~

~~A—Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking~~

~~P—Parking facilities~~

~~Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high water line or within a wetland~~

~~C—Temporary<sup>8</sup>~~

~~P—Permanent~~

**PORTER LAND USE ORDINANCE**

**Principal Structures and uses**

**C** One and two family residential

**P** Small non-residential facilities for educational, scientific, or nature interpretation purposes

**LPI** Private sewage disposal systems for allowed uses

**P** Public and private recreational areas involving minimal structural development

**C** Road construction, not in a subdivision

**P** Road construction, subdivision

**A** Service drops, as defined, to allowed uses

**C** Signs

**A** Soil and water conservation practices

**C** Structures accessory to allowed uses

**A** Surveying and resource analysis

**A** Timber harvesting (See Section 1.3B)

**A** Wildlife management practices

**C** Uses similar to allowed uses

**C** Uses similar to allowed uses requiring a CEO permit

**P** Uses similar to allowed uses requiring a PB permit

In Shoreland Residential Districts adjacent to other water bodies and wetlands, land uses permitted, in conformance with the General Performance Standards in Section IV and, where appropriate, the Specific Performance Standards of Section V, are as follows:

Key: "A" means the use is allowed without a permit but shall comply with all applicable land use standards

"C" means the use requires a permit authorized by the Code Enforcement Officer.

"LPI" means the use requires a permit authorized by the Plumbing Inspector

"P" means the use requires a permit authorized by the Planning Board.

**P** Antique stores

**P** Aquaculture

**P** Cabinetry and woodworking shops

**C** Clearing or removal of vegetation for activities other than timber harvesting

**P** Day care centers

**C** Driveway Access to Public or Private Street

**P** Educational Facility

**A** Emergency operations

Essential services

**A** Roadside distribution lines (34.5kV and lower)<sup>9</sup>

**C** Non-roadside or cross-country distribution lines involving ten poles or less in the Shoreland zone

**P** Non-roadside or cross-country distribution lines involving eleven or more poles in the Shoreland zone

**P** Other essential services

**P** Farm produce stands

**P** Farming and farm related ventures

**A** Filling and earth moving of <10 cubic yards

**C** Filling and earth moving of ≥10 cubic yards

**A** Fire prevention activities

## PORTER LAND USE ORDINANCE

- ~~A Forest management activities except for timber harvesting & land management roads (See Section 1.3B)~~
- ~~P Governmental and Institutional~~
- ~~P Grain and feed stores~~
- ~~P Home occupations~~
- ~~A Land management roads (See Section 1.3B)~~
- ~~P Marinas~~
- ~~P Mineral extraction~~
- ~~A Motorized vehicular traffic on existing roads and trails~~
- ~~P Neighborhood grocery and convenience stores~~
- ~~A Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking~~
- ~~P Parking facilities~~
- ~~Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high water line or within a wetland~~
  - ~~C Temporary~~
  - ~~P Permanent~~
- ~~Principal Structures and uses~~
  - ~~C One and two family residential~~
  - ~~P Small non-residential facilities for educational, scientific, or nature interpretation purposes~~
- ~~LPI Private sewage disposal systems for allowed uses~~
- ~~P Public and private recreational areas involving minimal structural development~~
- ~~C Road construction, not in a subdivision~~
- ~~P Road construction, subdivision~~
- ~~A Service drops, as defined, to allowed uses~~
- ~~C Signs~~
- ~~A Soil and water conservation practices~~
- ~~C Structures accessory to allowed uses~~
- ~~A Surveying and resource analysis~~
- ~~A Timber harvesting (See Section 1.3B)~~
- ~~A Wildlife management practices LPI Conversions of seasonal residences to year round residences~~
  - ~~C Uses similar to allowed uses~~
  - ~~C Uses similar to allowed uses requiring a CEO permit~~
  - ~~P Uses similar to allowed uses requiring a PB permit~~

### **STREAM PROTECTION DISTRICT: NOTE:**

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

**Comment [JT107]:** Per Official Town Zning Map

**Comment [J108]:** Good description - Can be tagged to chart column reference with a footnote.

~~Land uses permitted in the Stream Protection District, in conformance with the General Performance Standards in Section IV and, where appropriate, the Specific Performance Standards in Section V, are as follows:~~

## PORTER LAND USE ORDINANCE

Key: "A" means the use is allowed without a permit but shall comply with all applicable land use standards

"C" means the use requires a permit authorized by the Code Enforcement Officer.

"LPI" means the use requires a permit authorized by the Plumbing Inspector

"P" means the use requires a permit authorized by the Planning Board.

~~P Agriculture~~

~~P Aquaculture~~

~~C Clearing or removal of vegetation for activities other than timber harvesting~~

~~LPI Conversions of seasonal residences to year round residences~~

~~A Emergency operations~~

~~Essential services<sup>6</sup>~~

~~A Roadside distribution lines (34.5kV and lower)<sup>6</sup>~~

~~C Non roadside or cross country distribution lines involving ten poles or less in the Shoreland zone<sup>6</sup>~~

~~P Non roadside or cross country distribution lines involving eleven or more poles in the Shoreland zone<sup>6</sup>~~

~~P Other essential services<sup>6</sup>~~

~~A Filling and earth moving of <10 cubic yards~~

~~C Filling and earth moving of ≥10 cubic yards~~

~~A Fire prevention activities P Home Occupations~~

~~A Forest management activities except for timber harvesting & land management Roads (See Section 1.3B)~~

~~C Individual, private campsites~~

~~A Land management roads (See Section 1.3B)~~

~~P Marinas~~

~~A Motorized vehicular traffic on existing roads and trails~~

~~A Non intensive recreational uses not requiring structures such as hunting, fishing and hiking~~

~~Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high water line or within a wetland~~

~~C Temporary<sup>8</sup>~~

~~P Permanent~~

~~LPI Private sewage disposal systems for allowed uses~~

~~P Public and private recreational areas involving minimal structural development~~

~~C Road construction, not in a subdivision~~

~~P Road construction, subdivision~~

~~A Service drops, as defined, to allowed uses~~

~~C Signs~~

~~P Small non residential facilities for educational, scientific, or nature interpretation Purposes~~

~~A Soil and water conservation practices~~

~~C Structures accessory to allowed uses~~

~~A Surveying and resource analysis~~

~~A Timber harvesting (See Section 1.3B)~~

~~A Wildlife management practices~~

~~C Uses similar to allowed uses~~

## PORTER LAND USE ORDINANCE

C—Uses similar to allowed uses requiring a CEO permit

P—Uses similar to allowed uses requiring a PB permit

### RESOURCE PROTECTION DISTRICT:

Land use permitted in the Resource Protection District, in conformance with the General Performance Standards in Section IV and, where appropriate, the Specific Performance Standards in Section V are as follows:

Key: "A" means the use is allowed without a permit but shall comply with all applicable land use standards

"C" means the use requires a permit authorized by the Code Enforcement Officer.

"LPI" means the use requires a permit authorized by the Plumbing Inspector

"P" means the use requires a permit authorized by the Planning Board.

P—Agriculture

P—Aquaculture

C—Clearing or removal of vegetation for activities other than timber harvesting<sup>3</sup>

A—Emergency operations

C—Driveway Access to Public or Private Street<sup>7</sup>

Essential services<sup>6</sup>

A—Roadside distribution lines (34.5kV and lower)<sup>6</sup>

C—Non roadside or cross-country distribution lines involving ten poles or less in the Shoreland zone<sup>6</sup>

P—Non roadside or cross-country distribution lines involving eleven or more poles in the Shoreland zone<sup>6</sup>

P—Other essential services<sup>6</sup>

A—Filling and earth moving of <10 cubic yards

C—Filling and earth moving of ≥10 cubic yards

A—Fire prevention activities

A—Forest management activities except for timber harvesting & land management roads (See Section 1.3B)

P—Individual private campsites

A—Land management roads (See Section 1.3B)

P—Mineral extraction<sup>4-5</sup>

A—Motorized vehicular traffic on existing roads and trails

A—Non intensive recreational uses not requiring structures such as hunting, fishing and hiking

Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high water line or within a wetland

C—Temporary<sup>8</sup>

P—Permanent

P—Public and private recreational areas involving minimal structural development

A—Service drops, as defined, to allowed uses

C—Signs

P—Small non residential facilities for educational, scientific, or nature interpretation Purposes



**PORTER LAND USE ORDINANCE**

- ~~A— Soil and water conservation practices~~
- ~~C— Structures accessory to allowed uses~~
- ~~A— Surveying and resource analysis~~
- ~~C— Timber harvesting (See Section 1.3B)~~
- ~~A— Wildlife management practices~~
- ~~C— Uses similar to allowed uses~~
- ~~C— Uses similar to allowed uses requiring a CEO permit~~
- ~~P— Uses similar to allowed uses requiring a PB permit~~

~~Conversion of existing seasonal dwellings to year round use and the installation of subsurface sewage disposal systems are prohibited.~~

Comment [J109]: Reflected in Table.

**GENERAL DEVELOPMENT DISTRICT:**

~~Land uses permitted in the General Development District, in conformance with the General Performance Standards in Section IV and, where appropriate, the Specific Performance Standards in Section V, are as follows:~~

- ~~Key: “A” means the use is allowed without a permit but shall comply with all applicable land use standards.~~
- ~~“C” means the use requires a permit authorized by the Code Enforcement Officer.~~
- ~~“LPI” means the use requires a permit authorized by the Plumbing Inspector~~
- ~~“P” means the use requires a permit authorized by the Planning Board.~~

- ~~P— Agriculture~~
- ~~P— Aquaculture~~
- ~~P— Campgrounds~~
- ~~A— Clearing or removal of vegetation for activities other than timber harvesting~~
- ~~LPI— Conversions of seasonal residences to year round residences~~
- ~~A— Emergency operations~~
- ~~Essential services~~
  - ~~A— Roadside distribution lines (34.5kV and lower)<sup>9</sup>~~
  - ~~C— Non roadside or cross country distribution lines involving ten poles or less in the Shoreland zone~~
  - ~~C— Non roadside or cross country distribution lines involving eleven or more poles in the Shoreland zone~~
  - ~~P— Other essential services~~
- ~~A— Filling and earth moving of <10 cubic yards~~
- ~~C— Filling and earth moving of ≥10 cubic yards~~
- ~~A— Fire prevention activities~~
- ~~A— Forest management activities except for timber harvesting & land management roads~~
- ~~P— Home Occupations~~
- ~~C— Individual, private campsites~~
- ~~A— Land management roads~~
- ~~A— Mineral Exploration<sup>4</sup>~~
- ~~A— Mineral Extraction<sup>4</sup>~~
- ~~P— Motorized Vehicle Racing Facility~~

**PORTER LAND USE ORDINANCE**

- A Motorized vehicular traffic on existing roads and trails
- A Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking
- P Parking facilities
- Principal Structures and uses
  - C One and two family residential
  - P Multi-unit residential
  - P Commercial, Low impact not otherwise listed
  - P Commercial, High impact not otherwise listed
  - P Industrial, Low impact not otherwise listed
  - P Industrial, High impact not otherwise listed
  - P Governmental and Institutional
  - P Small non-residential facilities for educational, scientific, or nature interpretation purposes
- LPI Private sewage disposal systems for allowed uses
- P Public and private recreational areas involving minimal structural development
- C Road construction, not in a subdivision
- P Road construction, subdivisions
- A Service drops, as defined, to allowed uses
- C Signs
- A Soil and water conservation practices
- C Structures accessory to allowed uses
- A Surveying and resource analysis
- A Timber harvesting
- A Wildlife management practices
- C Uses similar to allowed uses
- C Uses similar to allowed uses requiring a CEO permit
- P Uses similar to allowed uses requiring a PB permit

**Key:**

- A = Use is allowed without a permit but shall notify the CEO and comply with all applicable land use standards
- C = Use requires a permit authorized by the Code Enforcement Officer
- LPI = Use requires a permit authorized by the Plumbing Inspector
- P = Use requires a permit authorized by the Planning Board

**Comment [PB110]:** Reformatted into an easier to read consolidated chart below.

Type of Use	Notes	Villages	Rural	Shoreland Limited Residential - Other <sup>1</sup>	Shoreland Limited Residential - Great Ponds <sup>1</sup>	Shoreland District-Stream Protection <sup>1</sup>	Resource Protection <sup>1</sup>	General Development
Adult Business		P	-	-	-	-	-	-
Agriculture		P	P	P	P	P	P	P
Animal Husbandry [ <u>&gt;30 AEU or 300 AFO/CAFO</u> ]		-	P	-	P	-	-	P
Antique stores		P	P	P	P	-	-	-
Aquaculture		P	P	P	P	P	P	P

**Comment [PB111]:** 95% of Farms in the USA are under this threshold – This threshold is for industrial production scale

**PORTER LAND USE ORDINANCE**

Assisted Living Facility		P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	-	-	-
Auto repair shops		<u>P</u>	<u>P</u>	-	-	-	-	<u>P</u>
Automobile graveyard and junkyard		<u>P</u>	<u>P</u>	-	-	-	-	<u>P</u>
Bed and breakfast <u>or Boarding Houses</u>		P	P	<u>P</u>	P	-	-	-
Cabinetry and woodworking shops		<u>P</u>	P	P	P	-	-	<u>P</u>
Campgrounds		<u>P</u>	P	<u>P</u>	P	-	-	<u>P</u>
Carpentry-Building-Trade Contractors		<u>P</u>	P	<u>P</u>	P	-	-	P
Civic and Social Service		P	-	<u>P</u>	-	-	-	-
Clearing or removal of vegetation for activities other than timber harvesting		A	A	<u>C A<sup>3</sup></u>	<u>C A<sup>3</sup></u>	C <sup>3</sup>	C <sup>3</sup>	A
Cluster Development (See Subdivision Law)		P	P	<u>P</u>	-	-	-	-
Commercial, High impact not otherwise listed	Principal Structure & Uses	<u>P</u>	-	-	-	-	-	P
Commercial, Low Impact not otherwise listed	Principal Structure & Uses	P	<u>P</u>	<u>P</u>	<u>P</u>	-	-	P
Conversions of seasonal residences to year round residences		<u>LPI</u>	LPI	LPI	LPI	-	-	LPI
Day care centers		P	P	P	P	-	-	-
Driveway Access to Public or Private Street		C	C	C	C	C <sup>2</sup>	C <sup>2</sup>	<u>C</u>
Educational Facility		P	<u>P</u>	P	P	-	-	-
Emergency operations		A	A	A	A	A	A	A
Farm produce stands (<100 SF)		<u>A<sup>3</sup></u>	<u>C A<sup>3</sup></u>	<u>P A<sup>3</sup></u>	<u>P A<sup>3</sup></u>	<u>A<sup>3</sup></u>	<u>A<sup>3</sup></u>	<u>A<sup>3</sup></u>
Farming and farm related ventures		<u>A<sup>3</sup></u>	<u>A<sup>3</sup></u>	<u>P A<sup>3</sup></u>	<u>A<sup>3</sup></u>	<u>A<sup>3</sup></u>	<u>A<sup>3</sup></u>	<u>A<sup>3</sup></u>
Filling and Earth Moving ≤10CY		A	A	A	A	A <sup>3</sup>	A <sup>3</sup>	A
Filling and earth moving of >10 cubic yards		C	C	C	C	C	C	C
Fire Prevention Activities		A	A	A	A	A	A	A
<b>Forest management activities except for timber harvesting &amp; land management roads (See Section 1.2B)</b>	-	A	A	A	A	A	A	A
Garage and yard sales		A	A	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
Garden nurseries- <u>Garden Nursery, Garden Supply, and/or Grain and Feed Store</u>		<u>P</u>	P	<u>P</u>	<u>P</u>	-	-	<u>P</u>
Governmental and Institutional	Principal Structure & Uses	P	-	P	<u>P</u>	-	-	<u>P</u>
Ground and Spring Water Extraction (2k-10 GPD)		<u>C</u>	<u>P C</u>	<u>C</u>	<u>C</u>	-	-	<u>C</u>
Ground and Spring Water Extraction (10k-20k GPD)		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	-	-	<u>P</u>
Health Care Facility		P <sup>2</sup>	<u>P<sup>2</sup></u>	<u>P<sup>2</sup></u>	<u>P<sup>2</sup></u>	-	-	-
Home Occupations		<u>P A<sup>3</sup></u>	<u>P A<sup>3</sup></u>	<u>P A<sup>3</sup></u>	<u>P A<sup>3</sup></u>	P	P	<u>P A<sup>3</sup></u>
Hospitals		<u>P</u>	<u>P</u>	-	-	-	-	-
Hotels/Motels/Inns		P	-	<u>P</u>	<u>P</u>	-	-	-
Individual, private campsites		<u>P-C</u>	C	<u>C</u>	C	C	C	C
Industrial, High impact not otherwise listed	Principal Structure & Uses	<u>P</u>	-	-	-	-	-	<u>P</u>
Industrial, Low impact not otherwise listed	Principal Structure & Uses	<u>P</u>	-	-	-	-	-	<u>P</u>
Kennel ( <u>Boarding or Breeding</u> ) and Veterinary Hospital		<u>P</u>	<u>P</u>	-	-	-	-	<u>P</u>
Kennel and Veterinary Hospital		P	P	<u>P</u>	-	-	-	<u>P</u>

**PORTER LAND USE ORDINANCE**

<b>Land management roads (See Section 1.2B)</b>	-	A	A	A	A	A	A	A
Marinas		-	-	P	P	-	-	-
Mineral Exploration <100SF		A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup>	A <sup>4</sup> C <sup>4</sup>	A <sup>4</sup>
Mineral Extraction		A <sup>2</sup> C	A <sup>2</sup> C	-	-	-	A <sup>2</sup>	A <sup>2</sup> C
Minor earthmoving activities		P A <sup>9</sup>	C A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	C	C	A <sup>9</sup>
Mobile home park		P	-	-	-	-	-	-
Motorized Vehicle Racing Facility		-	-	-	-	-	-	P
Motorized vehicular traffic on existing roads and trails		A	A	A	A	A	A	A
Multi unit residential	Principal Structure & Uses	P	-	P	-	-	-	P
Neighborhood grocery and convenience stores		P	P	P	P	-	-	-
Non roadside or cross country distribution lines involving <b>eleven (11) or more</b> poles in the Shoreland	Essential Services	P	P	P	P	P <sup>6</sup>	P <sup>6</sup>	C P
Non roadside or cross country distribution lines involving <b>ten (10) or less</b> poles in the Shoreland	Essential Services	C	C	C	C	C <sup>6</sup>	C <sup>6</sup>	C
Non-intensive recreational uses not requiring permanent structures such as hunting, fishing, and hiking		A	A	A	A	A	A	A
Nursing Home		P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	-	-	-
One and two family residential	Principal Structure & Uses	C	C	C	C	P	P	C
Other Essential Services	Essential Services	A	A	P	P	P <sup>6</sup>	P <sup>6</sup>	A
Parking facilities (Independent of Other Use Applications or Municipal Efforts)	Principal Structure & Uses	P	P	-	P	-	-	P
Parks		P	-	P	-	-	-	-
Permanent Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high water line or within a wetland		P	P	P	P	P	P	-
Places of worship		P	P	P	P	-	-	-
Private club		P	P	P	P	-	-	-
Public or Private recreational areas involving minimal structural development or facilities		P	P	P	P	P	P	P
Private sewage disposal systems for allowed uses		LPI	LPI	LPI <sup>5</sup>	LPI <sup>5</sup>	LPI <sup>5</sup>	LPI <sup>5</sup>	LPI <sup>5</sup>
Remote Solar Systems		P	P	P	P	P	P	P
Restaurants (incl. Café-Tea Shoppe-Bakery)		P	P	P	P	-	-	P
Road construction, not in a subdivision		C	C	C	C	C	-	C
Road construction, subdivisions		P	P	P	P	P	-	P
Roadside distribution lines (34.5kV and lower)	Essential Services	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>6</sup>	A <sup>6</sup>	A <sup>9</sup>
Sawmills/Timber Processing		-	P	-	-	-	-	P
Service drops, as defined, to allowed uses		A	A	A	A	A	A	A
Signs		C A <sup>9</sup>	C A <sup>9</sup>	C A <sup>9</sup>	C A <sup>9</sup>	C A <sup>9</sup>	C A <sup>9</sup>	C A <sup>9</sup>
Small non-residential private facilities for educational, scientific, or nature interpretation purposes	Principal Structures & Uses	P	P	P	P	P	P	P
Soil and water conservation practices		A	A	A	A	A	A	A
Special and/or hazardous waste facility		P	-	-	-	-	-	-
Structures accessory to allowed uses (<		A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>

**PORTER LAND USE ORDINANCE**

<u>100SF</u>								
Structure accessory to allowed uses (> 100 SF)		C	C	C	C	C	C	C
Surveying and resource analysis		A	A	A	A	A	A	A
Temporary Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high water line or within a wetland		P	P	C <sup>B</sup>	C <sup>B</sup>	C <sup>B</sup>	C <sup>B</sup>	-
Timber harvesting (See Section 1.3B)	-	P	A	C	C	C	C	A
Uses similar to allowed 'A' uses (DEP)	-	<del>C-A</del>	<del>C-A</del>	<del>C-A</del>	<del>C-A</del>	<del>C-A</del>	<del>C-A</del>	<del>C-A</del>
Uses similar to allowed uses requiring a CEO permit		C	C	C	C	C	C	C
Uses similar to allowed uses requiring a PB permit		P	P	P	P	P	P	P
Wildlife management practices		A	A	A	A	A	A	A
Wireless Communication Facilities and Communications Towers		P	P	-	-	-	P	-

Footnotes to Section 3.4:

1. In all Districts the following commercial or industrial uses are prohibited within five hundred (500) feet of the normal high water line of a great pond or river, and streams which flow to great ponds or rivers:

- Auto washing facilities
- Auto or other vehicle service and/or repair operations, including body shops
- Chemical and bacteriological laboratories
- Storage of chemicals, including herbicides, pesticides, or fertilizers other than amounts normally associated with individual households or farms
- Commercial painting, wood preserving, and furniture stripping
- Dry cleaning establishments
- Electronic circuit assembly
- Laundromats, unless connected to a sanitary sewer
- Metal plating, finishing, or polishing
- Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas, photographic processing, and printing.
- Photographic processing
- Printing

~~Junkyards and Automobile Graveyards~~

2. ~~In the Rural District, t~~The following uses shall only be permitted on properties with frontage or direct driveway access to arterial streets and in accordance with Article III Section 3.4:

~~Hospitals~~

- Assisted Living Facility
- Nursing Home
- Health Care Facility

3. In Resource Protection not allowed within seventy five (75) feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

4. Requires permit from the Code Enforcement Officer if more than one hundred (100) square feet of surface area, in total, is disturbed.

**Comment [DDS112]:** Coordinated with LUO

**Comment [J113]:** Review Article V updates and coordination - add to list.

**Comment [DDS114]:** Clarification and coordination with Article III

**Comment [J115]:** Remove conflicts - not clearly defined throughout LUO and conflict with Health Care Facility

**PORTER LAND USE ORDINANCE**

- ~~5. In Resource Protection not allowed in areas so designated because of wildlife value.~~
- ~~6. See further restrictions in Section 4.2.W.2. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use, or except where the applicant demonstrates that no reasonable alternative exists. Allowable structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources.~~
- ~~7. In Resource Protection only as provided in Section 4.2.L.2(e). When a road or driveway is permitted in a Resource Protection District, the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.~~
8. Excluding bridges and other crossing not involving earthwork, in which case no permit is required.
9. Permit fees not required but shall file a written “notice of intent to construct” with CEO to verify ordinance is being followed.

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

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

**Comment [J116]:** Redundant - Remove/Correct the designation in table if not allowed

**Comment [J117]:** Expanded from Section 4.2.W.2 to improve information flow

**Comment [J118]:** Expanded from from Section 4.2.L.2(e) to improve information flow

**Comment [J119]:** DEP stated should not be incorporated into a municipalities locally adopted ordinance, but is helpful. Retain.

## PORTER LAND USE ORDINANCE

### ARTICLE IV PERFORMANCE STANDARDS - GENERAL REQUIREMENTS

#### 4.1 Applicability and Purpose.

These standards apply to all use of land and buildings in the town of Porter, unless otherwise specified, whether or not specific approval or a permit is required. The purposes of these standards are to implement the **Comprehensive Plan**, including, but not limited to: municipal operational efficiency, encouraging depressed village areas and abandoned structures to be economically viable, promoting an environment that supports local employment and economic well-being for the community, facilitating the use of greenhouses, farm stands, farmer's markets, and community gardens, and allowing for the retention and restoration of farmlands and orchards, to balance the rights of land owners to use their land with the rights of abutting land owners and the general public, and to protect the public health, safety, and welfare.

Comment [J120]: Town of Porter  
Comprehensive Plan

Mandatory Shoreland Zoning applies to all land areas within two hundred fifty (250) feet, horizontal distance, of the

- normal high-water line of any great pond or river, or
- upland edge of a freshwater wetland, and all land areas within seventy five (75) feet, horizontal distance, of the normal high-water line of a stream.

This ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

#### 4.2 Standards.

##### ~~A.~~ A. Access Control and Traffic Impacts.

1. Shall provide safe access.

All land uses shall provide for safe access to and from public and private roads. Safe access shall be assured by providing access points which are appropriate as to number and location, with respect to sight-distances, intersections, schools, and other traffic generators. **A separate Land Use Permit from the Code Enforcement Officer shall be required for any new access onto a public or private road**, pursuant to Article III Section 3.4 of this Ordinance. If the proposed new access serves a proposed new building or structure, the Land Use Permit for the new access shall be obtained prior to the issuance of the Land Use Permit for the new building or structure.

2. Any access on-to a public and/or private road is limited to the minimum width necessary for safe entering and exiting. The proposed development may not have an unreasonable negative impact on the town road system, and shall assure safe interior circulation within its site, by separating pedestrian and vehicular traffic, and providing parking and loading areas as required by this Ordinance.

3. Access to major highways limited.

Any lot created after the adoption of this standard, whether or not part of a subdivision, may not have access to Routes 25 and 160, unless the Planning Board determines that conditions particular to the parcel justify the granting of a waiver to this standard. A waiver may be granted only if all of the following conditions are met:

- (a) There is too little road frontage to reasonably allow for the creation of a local road,
- (b) There will be no further division of the parcel,

PORTER LAND USE ORDINANCE

- (c) The shape and physical conditions of the parcel do not permit access to or the creation of a local road, and
(d) Proper sight distance will be maintained.

Lots in existence at the time of adoption of this standard are allowed only one driveway onto Routes 25 and 160 unless the lot is located in the Village District. Lots in the Village District are allowed two (2) driveways on Routes 25 and 160. Curb barriers are required to prevent entrance and exit of cars except at specified locations.

- 4. Lots which front on two (2) or more roads.
If a lot has frontage on more than one (1) road the driveway may be located only on the roads which has the least have limited potential for traffic congestion and for hazards to traffic and pedestrians.
5. Slope and intersection angle.
Driveways may not have an average slope in excess of 8% within 50 one hundred (100) feet of the point of intersection of a public road.
6. The angle of intersection between the driveway and the public road shall be as close to 75-90 degrees, but no less than 75% as possible.
7. The maximum grade within 75 feet of an intersection is 3%.
6. Driveways through residential districts.
No driveway may be located in a residential district to provide access to uses other than those permitted in that residential district.
7-8. Roads shall have carrying capacity.
The road to which a driveway connects and the roads which are expected to carry traffic to the use served by the driveway shall have traffic carrying capacity and be suitably improved suitable to accommodate the amounts and types of traffic generated by the proposed use. No development may reduce the road's current Level of Service to "D" or below.
8-9. Public road improvements required.
Where specified, necessary 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.
9-10. Prevent queuing.
Driveways shall be designed so as to prevent queuing of entering vehicles on any public road.
10-11. Circulation connections to adjoining lots.
Where topographic conditions and ordinance setbacks and other conditions allow, provisions shall be made for circulation connections to adjoining lots of similar existing or potential use when:
(a) Such connections will facilitate fire protection services as approved by the Fire Chief, and/or
(b) Such connections will enable the public to travel between two (2) or more existing or potential uses, generally open to the public, without need to travel onto a public road.
11-12. Sight distance.
A. All driveways shall be designed in profile and grading, and located, so as to provide the ten (10) feet of sight distance for every mile per hour of posted speed. If the public road is not posted, the posted maximum speed is assumed to be 45 for any municipal road providing a minimum of 22 feet in overall width (shoulders & pavement). The sight distance measurements shall be from the driver's seat of a vehicle standing on that portion of the driveway with the front of the vehicle a minimum of ten (10) feet behind the curb line or edge of shoulder, with the height of the eye 3.5 feet to the top of an object 4.25 feet above the pavement.

Comment [DDS121]: Clarification

Comment [JT122]: Coordination with other parts of the LUO and Subdivision Regulations- previously confusing and conflicting.

Comment [J123]: Removes subjectivity and coordinates with an allowable tolerances within the ordinance.

Comment [DDS124]: Coordinated with Article 12 Road design standards

Comment [J125]: Redundant to the LUO Article IV

Comment [J126]: Few local roads have the carrying capacity to accommodate traffic or to meet minimum standards of construction defined by the State.

Comment [DDS127]: Needs to be defined or deleted.

Comment [DDS128]: Clarification of potential conditions.

Comment [J129]: Error - there are no postings, or extremely limited.

Comment [J130]: Minimum State of Maine road standard for all local roads is 22' in total width min. in order to permit utilizing the minimum unposted 45 MPH regulation for benefit.

Comment [J131]: How does each planning board member consistently interpret this, and how is it accurately measured?



PORTER LAND USE ORDINANCE

B. If the required ~~sight distance minimum town road construction cannot be met~~, the Planning Board, CEO, or its designee may reduce the required sight distance up to a maximum of 50% if it can be determined safe access can be achieved. The criteria used may include, but not be limited to, road surface condition, pavement and shoulder width (22' out-to-out minimum), alignment (grade (8%-11%) & superelevation at horizontal curves (<1" per foot)), cross-slope (1/4" per foot), topography, traffic volume, and distances to intersections.

NOTE: The performance variance in 12.B does not apply to High Impact Uses, Minor & Major Subdivisions, Campgrounds, Mobile Home Parks, Hotels/Motels/Inns, Cluster Developments, Multi-Family Dwellings. These uses must provide sight distances based on the State minimum road speed to accommodate for significant development growth.

**Comment [J132]:** Out to out measurement from shoulder to shoulder is required to be 22' in order to achieve the road engineering necessary that allows 45 mile per hour travel.

**Comment [DDS133]:** Coordinating and standardizing to encompass both CEO and PB administration.

**Comment [J134]:** This addresses existing road infrastructure deficiencies and the abrupt turns on the 41 miles of Porter roads.

**Comment [J135]:** The current condition of Porter local roads support 20 MPH to 30 MPH, with a stopping sight distances of 150 feet to 250 feet. There is inadequate superelevations, cross-slopes, road widths, and LOS to support travel at 45 MPH. When the horizontal and vertical alignments do not allow 45 MPH, the road(s) must also be posted at a safe travel speed (either warning or regulatory) in accordance with State Law to prevent legal risks to the town.

12.13. Distance to intersection.

No driveways may be located less than fifty (50) feet from the point of tangency intersection of the public roads at an unsignalized intersection and less than 125-150 feet from the point of tangency intersection of the public roads at a signalized intersection.

**Comment [PB136]:** It is anticipated that municipal infrastructure will have to "catch" up, and eventually will to accommodate these significant developments.

13.14. Distance to property lines.

Except for driveways shared by abutting lots, no driveway may be located less than twenty (20) feet from a side or rear lot line.

**Comment [J137]:** This addresses inconsistencies within the LUO standards, in terms of method of measurement and lineal footage

14.15. Construction materials.

(a) A driveway entering onto a curbed road shall be curbed with materials matching the road curbing. Curbing is required around all raised channelization islands and medians.

**Comment [DDS138]:** Addresses corner lots that were omitted.

(b) Driveways within the road right-of-way shall be constructed so as to prevent the roadway from being damaged by vehicles entering and exiting the site. ~~This can best be accomplished by constructing the driveway which is within the right of way with bituminous concrete pavement over a gravel sub base at least 6" in thickness.~~ A driveway serving a high impact commercial or high impact industrial uses, regardless of driveway volume, should be paved with bituminous concrete pavement over a gravel sub-base, or equivalent, at least 6" in thickness within the road right-of-way and for a distance of thirty (30) feet from the road right-of-way. NOTE: Traffic volume of the developments (ie subdivision, cluster development, mobile home parks, campgrounds, multi-family dwellings, etc.) or the engineered needs for high impact Industrial or Commercial Uses may require additional structural fill in accordance with Article 12 of the Subdivision Regulations.

**Comment [PB139]:** Conflicting (see below) – Is it guidance, a mandate, a recommendation, an opinion?

**Comment [PB140]:** Affords flexibility on structural material, cost and supplier

NOTE: Driveways shall be a minimum of twelve (12) feet wide for one or two dwelling units and two feet wider for each additional dwelling unit up to a maximum of twenty-two (22) feet.

**Comment [J141]:** This contradicts the Comprehensive Plan and enforcement in the Town of Porter. Every residence per this ordinance requires asphaltting 16 feet into every residential property driveway or homestead business (while leaving a gap of dirt where the town road is insufficiently wide). Has this considered local resident cost of living burdens, culvert replacement or extension accessibility and cost, introduction of drainage issues, plowing inefficiency and damage, or ecological impacts?

(c) A culvert shall be installed if needed to carry storm water from one side of the driveway to the other side. The size and location of the culvert shall be reviewed by the road commissioner.

**Comment [J142]:** Moved upward, road expanded to 22 foot max.

(d) Driveways may either be paved or gravel, depending upon the use. Gravel driveways shall contain at least a 4-6" combination of base gravel and crushed gravel, or equivalent. Driveways shall be a minimum of 12 feet wide for one or two dwelling units and two feet wider for each additional dwelling unit up to a maximum of twenty (20) feet.

**Comment [PB143]:** Affords flexibility on costs, material, and supplier access.

Unless specified otherwise, Subdivision Regulation Design Guidelines (Article 12 Section 12.2 - Traffic conditions) are to be referenced for all road construction of subdivided parcels serving more than two (2) dwellings within the municipality, regardless of type (Exempt, Minor, or Major)

**PORTER LAND USE ORDINANCE**

(e) Existing gravel driveways for one or two dwelling units should be in good repair, graded, and compacted to support loading.

**Comment [DDS144]:** Coordination of LUO, wide-ranging uses, and the Comprehensive Plan

**B. H. Clearing or Removal of Vegetation in a Shoreland Zone for Activities Other Than Timber Harvesting.**

1. Within a Resource Protection District abutting a great pond, there may be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except to remove ~~safety hazards.~~ Hazard trees as described in Article IV section 4.2 Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal within Shoreland Elsewhere, in any Resource Protection District, the cutting or removal of vegetation is limited to that which is necessary for uses expressly authorized in that district.

**Comment [J145]:** DEP Upgrades

2. Except in areas as described in **Subsection 4.2.B.1** above, ~~and except to allow for the development of permitted uses,~~ within a strip of land extending one hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond or a river, ~~and or within a strip extending~~ seventy-five (75 feet), horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

**Comment [DDS146]:** DEP Upgrades

**Comment [DDS147]:** DEP Upgrades

(a) There may be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if the forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.

**Comment [DDS148]:** DEP Upgrades

**Comment [DDS149]:** DEP Upgrades

**(b) Distribution**

**Comment [DDS150]:** DEP Upgrades

(1) Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of this s~~Section 4.2.B.2.b,~~ a “well-distributed stand of trees” adjacent to a great pond, river, or stream flowing to a great pond, shall be defined as maintaining a rating score of 24 or more in each 25-foot ~~by x~~ 50-foot rectangular (1250 square feet) area as determined by the following rating system:

**Diameter of Trees at 4 1/2 feet above Ground Level**

Inches	Points
2 <4 inches	1
4 <8 inches	2
8 <12 inches	4
12 inches or greater	8

**Comment [PB151]:** Reformatted into a chart (below)

## PORTER LAND USE ORDINANCE

Diameter of Trees at 4 1/2 Feet above Ground Level	
Inches (Range)	Points
2" to <4"	1
4" to <8"	2
8" - <12"	4
≥ 12"	8

- (2) Adjacent to other water bodies, tributary streams, and wetlands, a “well-distributed stand of trees” is defined as maintaining a minimum rating score of ~~8~~ 16 per 25-foot ~~by x~~ 50-foot rectangular area.

**Comment [J152]:** Typing error - MEDEP guideline is 16 points

**NOTE:** As an example, adjacent to a great pond, river, or stream flowing to a great pond (2.b.1), if a 25-foot x 50 foot plot contains four (4) trees between 2 and 4 inches in diameter, two (2) trees between 4 and 8 inches in diameter, three (3) trees between 8 and 12 inches in diameter, and two (2) trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points ( $36 - 24 = 12$ ) may be removed from the plot, provided that no cleared openings are created.

Adjacent to other water bodies, tributary streams, and wetlands (2.b.2) - Trees totaling 20 points ( $36 - 16 = 20$ ) may be removed from the plot, provided that no cleared openings are created.

**Comment [J153]:** Clarification of LUO and DEP Regulations

The following shall govern in applying this point system:

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

For the purposes of Section **4.2.B.2.b** “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot ~~by x~~ 50-foot rectangle area. If

## PORTER LAND USE ORDINANCE

five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

- (3) Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4-1/2 feet above ground level may be removed in any ten (10) year period.

~~(b)~~ In order to protect water quality and wildlife habitat, existing vegetation under three(3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Subsection 4.2.B.2 & 2a paragraphs 2 and 2a (above).

~~(c)~~ Pruning of tree branches on the bottom 1/3 of the tree is allowed.

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

(e) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of section 4.2 B.2.

(f) Section 4.2.B.2 does not apply to those portions of public recreational facilities adjacent to public swimming areas; cleared areas are limited to the minimum area necessary.

- 3- At distances greater than one hundred (100) feet, horizontal distance, from a great pond or a river, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than 40% of the volume of trees 4 inches or more in diameter, measured 4-1/2 feet above ground level. Tree removal in conjunction with development of permitted uses shall be included in the 40% calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area. In no event may cleared openings for any purpose, including but not limited, to principal and accessory structures, driveways, lawns, and sewage disposal areas, exceed in the aggregate 25% of the lot area within the Shoreland zones or ten thousand (10,000) square feet (20,000 square feet in all other zones) square feet, whichever is greater, including land previously cleared.

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

- 5- Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation are regulated under the provisions of this section Section 4.2.B.

### Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in this section (Article IV section 4.2 Clearing or Removal of Vegetation for

Development in a Shoreland Zone) provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

(1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due

Comment [JT154]: Coordination of document references

Comment [JT155]: DEP Upgrades

Comment [JT156]: DEP Upgrades

Comment [DDS157]: Coordination of LUO regulations and Comprehensive Plan for Shoreland and out of Shoreland areas in the municipality.

Comment [DDS158]: Circular reference, refers to itself.

PORTER LAND USE ORDINANCE

to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements this section (Article IV section 4.2, Clearing or Removal of Vegetation for Development in a Shoreland Zone ) apply;

(2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of this section (Article IV section 4.2, Clearing or Removal of Vegetation for Development in a Shoreland Zone) are not applicable;

(3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

(4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of this section (Article IV section 4.2 Clearing or Removal of Vegetation for

Development in a Shoreland Zone) are complied with;

(5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along a river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.

(6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

(a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

(b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and

(c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

(7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, and their agents.

Comment [JT159]: DEP Upgrades

**C. I. Dust, Fumes, Vapors, and Gases.**

Emission of dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation or property, or which could soil or stain persons or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission are prohibited.

NOTE: Road dusts and salts from unimproved and unmaintained roads are normal and expected to collect on vehicles, property, plants, etc.

Comment [PB160]: Clarification based on existing infrastructure and competent and reasonable expectations.

Comment [J161]: Most standard residential tanks are under 300G.

Comment [J162]: Ran into some confusion on this at a past applications regarding underground and above ground tanks, so added this section.

**D. E. Explosive Materials.**

Bulk quantities in excess of three hundred (300) gallons of highly flammable or explosive liquids, solids, or gases, stored above ground, shall be at least seventy-five 75 feet from any lot line, public road, or interior roadway; and shall be anchored tanks, when required by Code. Bulk quantities of

## PORTER LAND USE ORDINANCE

highly flammable or explosive liquids, solids, or gases, stored below ground shall be at least 40 feet from any lot line, public road, or interior roadway. The storage of propane shall meet the current **NFPA requirements**. No LP gas bulk storage in excess of five thousand (5,000) gallons may be located within one thousand (1,000) feet of a lot line

### **E. G. Light and Glare.**

1. Direct or indirect (glare or reflection) illumination shall not exceed 0.6 footcandle upon abutting residential properties or 1.0 footcandle upon any other abutting properties. For purposes of this subsection, abutting properties shall include properties that are separated from the illuminated lot by a street, road or right-of-way. Upon receipt of a written complaint, the Code Enforcement Officer ~~may employ an engineer at the expense of an alleged violator to will~~ determine whether an illuminated property is in compliance with this subsection.
2. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by, or do not create or constitute a hazard or nuisance to, motorists, pedestrians or neighboring residents, and so that the maximum apex angle of the cone of illumination is restricted to 150 degrees.
3. The maximum height of freestanding lights shall be the same as the principal building located on the property, but in no event shall exceed twenty-five (25) feet.

**Comment [J163]:** Town to procure a light meter to enforce. Subjective and unenforceable, as written.

### **F. J. Land Uses and Activities in the Resource Protection District and All Shoreland — Areas.**

The Review Authority may only approve a Land Use Permit application for a land use or activity in the Resource Protection Area or Shoreland Area if it makes a positive finding based on the information presented that the proposed use or activity:

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or wildlife habitat;
4. Will conserve shore cover and visual, as well as actual, points of access to water bodies;
5. Will protect archaeological and historic resources as designated in the Comprehensive Plan;
6. Will avoid problems associated with flood plain development; and
7. Is in conformance with the applicable standards of this Ordinance, including Articles IV and V.
8. The total area of all structures, parking lots, and other non-vegetated areas within the shoreland area shall not exceed 20 percent, including areas previously developed.
9. Will meet the intent and purpose of the **Comprehensive Plan**.

### **G. Noise.**

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

#### **Sound Pressure Level Limit**

~~7 a.m. — 9 p.m. — 9 p.m. — 7 a.m.~~

Spring 2019 Revision DRAFT #1

Page 46 of 155

**PORTER LAND USE ORDINANCE**

~~55 dB (A)~~ ——— ~~35 dB (A)~~

- ~~2. Noise shall be measured with a sound level meter set on the A weighted response scale, slow response. The meter shall meet the standards of the American National Institute (ANSI S1.4-1961) "American Standard Specification for General Purpose Sound Level Meters".~~
- ~~3. The following uses and activities are exempt from the sound pressure level regulations:
  - ~~(a) Noises created by construction and temporary maintenance activities between 7 a.m. and 10 p.m.~~
  - ~~(b) The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency activity.~~
  - ~~(c) Traffic noises on public roads.~~
  - ~~(d) Noises which exceed the above standard by 10dB or less for 15 minutes or less, in any one day.~~~~

G. S. Noise.

1. Excessive or frequent noises are required to be muffled or prohibited, so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume (please refer to table below). The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any commercial or industrial activity regulated by this Ordinance is listed below. Sound pressure levels shall be measured on a sound level meter at all major lot lines of the site, at a height of at least four feet above the ground surface.

Sound Pressure Level Limit: 7 – 9 pm (55 dBA) / 9 pm – 7 am (35 dBA)

2. Noise shall be measured with a sound level meter set on the A weighted response scale, slow response. The meter shall meet the standards of the American National Institute (ANSI S1.4-1961) "American Standard Specification for General Purpose Sound Level Meters".

Noise shall be measured per MEDEP 06-096 Chapter 375 Article 10 Control of Noise

(1) Sound Pressure Level Limits from Routine Operation of Developments (MEDEP 06-096 Chapter 375 Article 10 – Control of Noise

(a) Except as noted in subsections (b) and (c) below, the hourly sound levels resulting from routine operation of the development and measured in accordance with the measurement procedures described in subsection H shall not exceed the following limits:

(i) At any protected location in an area for which the zoning, or, if unzoned, the existing use or use contemplated under a comprehensive plan, is NOT predominantly commercial, transportation, or industrial;

60 dBA between 7:00 a.m. and 7:00 p.m.

(the "daytime hourly limit"), and

50 dBA between 7:00 p.m. and 7:00 a.m.

(the "nighttime hourly limit").

**PORTER LAND USE ORDINANCE**

(i) At any protected location in an area for which the zoning, or, if unzoned, the existing use or use contemplated under a comprehensive plan, is predominantly commercial, transportation, or industrial:

70 dBA between 7:00 a.m. and 7:00 p.m.

(the "daytime hourly limit"), and

60 dBA between 7:00 p.m. and 7:00 a.m.

(the 'nighttime hourly limit').

(a) At any protected location in an area for which the zoning, or, if unzoned, the existing use or use contemplated under a comprehensive plan, is NOT predominantly commercial, transportation, or industrial:

65 dBA between 7:00 a.m. and 7:00 p.m., and

55 dBA between 7:00 p.m. and 7:00 a.m.

(b) At any protected location in an area for which the zoning, or, if unzoned, the existing use or use contemplated under a comprehensive plan, is predominantly commercial, transportation, or industrial:

75 dBA between 7:00 a.m. and 7:00 p.m., and

65 BA between 7:00 p.m. and 7:00 a.m.

3. The following uses and activities are exempt from the sound pressure level regulations:

(a) Noises created by construction and temporary maintenance activities between 7 a.m. and 10 p.m.

(b) The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency activity.

(c) Traffic noises on public roads.

(d) Noises which exceed the above standard by 10dB or less for 15 minutes or less, in any one day.

The following uses and activities are exempt from the sound pressure level regulations in addition to MEDEP 06-096 Chapter 375 Article 10 Section 5 - Exceptions:

(a) Emergency Generators utilized during power outages.

**Comment [J164]:** Utilizes the Chapter 375 MEDEP Regulation to address flaws in the ordinance that the town has been aware of since November of 2015.

**H. N. Off-Street Parking and Loading Requirements.**

1. Basic Requirement.

In any District where permitted, no use of premises may be authorized or extended, and no building or structure may be constructed or enlarged unless such extension, construction or enlargement is provided with public or off-street automobile parking space within 300-foot-typical walking distance



## PORTER LAND USE ORDINANCE

of the principal building, structure or use of the premises, in accordance with the following schedule of parking requirements. No required parking space may, for the purposes of this Ordinance, serve more than 1 use, unless written approval and validation from the affected parking space owners is provided, authorized by the Planning Board.

**Comment [J165]:** Contradicts with the Comprehensive Plan and the purpose of districts.

2. No off-street parking facility may have more than two(2) entrances and exits on the same street, and no entrance or exit may exceed twenty-six (26) feet in width. Parking areas with more than two (2) parking spaces shall be so arranged that vehicles can be turned around rather than being backed into the street.

**Comment [J166]:** A concern raised by the MEDEP that this has prevented retaining existing buildings and local economics, in violation of the Comprehensive Plan.

3. All land uses shall provide safe pedestrian access from parking designated areas. Safe access shall be assured by providing access points which are appropriate as to number and location, with respect to sight-distances, intersections, schools, and other traffic generators. Warning signage and established crosswalks will require approval from the MEDOT or the Planning Board if any of the following conditions are met:

- a. RURAL (Remote Parking): Uses exceeding a vehicle Trip Generation of more than 50 and requiring pedestrians to walk more than 300 feet within the public right of way in order to access uses exceeding a Vehicle Trip Generation of 50.
- b. ALL Districts: Parking areas cross local and state roadways regulated at or exceeding 45 MPH for any uses exceeding a vehicle Trip Generation of 50.
- c. ALL Districts: Parking Areas require crossing route 25 to access the use, regardless of trip-generation created by the use.

**Comment [J167]:** This should allow village walking (minimal pedestrian traffic), while considering remote parking risks and coordination with the MEDOT for larger routes (25/160). It also captures remote rural conditions for mid-size and high risk enterprises, creates a threshold for home occupations, and limits roadwalking even more than the existing ordinance. Coordinates with the comprehensive plan.

~~3.~~ 4. New parking and loading areas for one or two dwelling units or home businesses shall be surfaced with 8-a minimum of 4 inches of bank run sand and gravel covered with 2 inches of crushed stone, or equivalent. To prevent this material from entering the public way, paving may be needed at entrances and exits. NOTE: Existing gravel parking areas are to be stabilized, graded, and compacted to support intended loading.

**Comment [J168]:** Clarified and aligned with driveway gravel regulations IV 4.2-A (Access Control & Traffic Impacts)

5. Unless specified otherwise, Subdivision Regulation Design Guidelines (Article 12 Section 12.2 - Traffic conditions) are to be referenced for all new road construction of subdivided parcels serving more than two (2) dwellings or a single home business within the municipality, regardless of type (Exempt, Minor, or Major)

**Comment [PB169]:** Affords structural material flexibility based on price and location of supplier.

6. Typical parking space (outside of the two hundred fifty (250) feet of Shoreland buffer): Approximately nine (9) feet wide and twenty (20) feet long.

**Comment [DDS170]:** Aligned with current socio-economic conditions in Porter and Porter Comprehensive Plan.

~~4.~~ 7. Off-Street Parking Spaces.

Parking spaces and parking lot aisle layout shall conform to the following standards:

**PORTER LAND USE ORDINANCE**

Type	Parking Angle (Degrees)	Curb Length (Feet)	Width, Curb-to-curb (Feet)
One/two way, double loaded aisles	90	9	60
One/two way, single loaded aisles	90	9	42
Two way, double loaded aisles	60	10.5	59
Two way, single loaded aisles	60	10.5	40
One way, double loaded aisles	60	10.5	53.5
One way, single loaded aisles	60	10.5	34.5
Two way, double loaded aisles	45	12.75	56.5
Two way, single loaded aisles	45	12.75	38.5
One way, double loaded aisles	45	12.75	48.5
One way, single loaded aisles	45	12.75	30
Two way, double loaded aisles	30	15	51
Two way, single loaded aisles	30	15	35.5
One way, double loaded aisles	30	15	43
One way, single loaded aisles	30	15	27.5

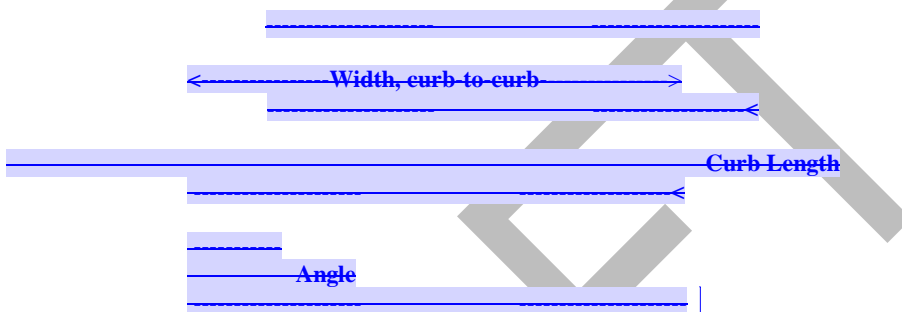
	Parking Angle	Curb Length	Width, Curb-to-curb
One/two way, double loaded aisles.....	90 degrees	9.00 feet	60.0 feet
One/two way, single loaded aisles.....	90 degrees	9.00 feet	42.0 feet
Two way, double loaded aisles.....	60 degrees	10.50 feet	59.0 feet
Two way, single loaded aisles.....	60 degrees	10.50 feet	40.0 feet
One way, double loaded aisles.....	60 degrees	10.50 feet	53.5 feet
One way, single loaded aisles.....	60 degrees	10.50 feet	34.5 feet
Two way, double loaded aisles.....	45 degrees	12.75 feet	56.5 feet
Two way, single loaded aisles.....	45 degrees	12.75 feet	38.5 feet
One way, double loaded aisles.....	45 degrees	12.75 feet	48.5 feet
One way, single loaded aisles.....	45 degrees	12.75 feet	30.0 feet
Two way, double loaded aisles.....	30 degrees	15.00 feet	51.0 feet
Two way, single loaded aisles.....	30 degrees	15.00 feet	35.5 feet

**PORTER LAND USE ORDINANCE**

loaded aisles.....30 degrees	15.00 feet	35.5 feet
One way, double loaded aisles.....30 degrees	15.00 feet	43.0 feet
One way, single loaded aisles.....30 degrees	15.00 feet	27.5 feet

**Comment [J171]:** Refitted into an easy to read chart (above)

**Explanation of terms used in 4., above.**



**Comment [J172]:** Obsolete, provides no benefit, and is indecipherable

**8. Schedule of Minimum Off-Street Parking Requirements:**

<b>LAND USE</b>	<b>REQUIRED NUMBER OF SPACES</b>
Agriculture	1 for every 2 employees or contractors
Antique stores	1 per 400 sq.ft. of gross floor area
Apartments	1.5 per dwelling
Auto repair shops	1 per 200 sq.ft. of gross floor area
Automobile graveyard and junkyard	1 for every 2 employees or contractors, plus 2
Bed and Breakfast	2 for dwelling, plus 1 per rental room
Boarding house	2 for dwelling, plus 1 per rental room
Cabinetry and woodworking shops	1 per 400 sq.ft. of gross floor area
Carpentry, Building, and Trade contractors	1 for every 2 employees or contractors
Civic and social service	1 for every 3 persons the facility is designed to accommodate <del>1 per 300 sq. ft. of gross floor area</del>
Day care centers	1 for every 4 children for which the facility is licensed
Educational Facility - Post Secondary	1 per student, plus 1 per staff and faculty members
Educational Facility - Primary	1.5 per classroom
Educational Facility - Secondary	8 per classroom
Farm produce stands	1 per 1,000 sq.ft. of display and sales gross floor area
Garage and yard sales	See Performance Standard in Section V

**Comment [DDS173]:** Adjusted to occupancy in lieu of size

**PORTER LAND USE ORDINANCE**

<del>or Garden and feed Stores</del> <u>Garden Nursery, Garden Supply, and/or Grain and Feed Store</u>	<u>1 per 1,000 sq.ft. of display and sales gross floor area</u>
<u>Grain and feed stores</u>	<u>1 per 1,000 sq.ft. of display and sales gross floor area</u>
<u>Ground or spring water extraction</u>	<u>1 for every employee or contractor</u> <del>1 for every 2 employees</del>
<u>High impact commercial</u>	<u>1 per 200 sq.ft. of gross floor area</u>
<u>High impact industrial</u>	<u>1 per 200 sq.ft. of gross floor area</u>
<u>Home Occupation</u>	<u>1.5 for the dwelling, plus 2</u> <del>2 for the dwelling, plus 2</del>
<u>Hotel/Motel/Inn</u>	<u>1 for every room rented, 1 for manager or owner dwelling, plus spaces required for staff and any restaurant facility (See below)</u>
<u>Kennels (Boarding or Breeding) and Veterinary hospitals</u>	<u>1 per 200 sq.ft. of gross floor area</u>
<u>Low impact commercial</u>	<u>1 per 400 sq.ft. of gross floor area</u>
<u>Low impact industrial</u>	<u>1 per 400 sq.ft. of gross floor area</u>
<u>Marina</u>	<u>1 per 200 sq.ft. of gross floor area</u>
<u>Mineral exploration and extraction</u>	<u>1 for every 2 employees or contractors</u>
<u>Mobile home parks</u>	<u>1.5 per dwelling</u>
<u>Multi-family residential (dwelling)</u>	<u>1.5 per dwelling</u>
<u>Neighborhood Grocery and Convenience Stores</u>	<u>1 per 150 sq.ft. of gross floor area</u>
<u>Parks</u>	<u>1 per 200 sq.ft. of gross floor area in any buildings of all structures, plus 1 for every 3 persons the facility is designed to accommodate</u>
<u>Places of worship</u>	<u>1 per 4 seats in the portion used for worship, plus 1 per 200 sq.ft. of floor area not used for worship</u>
<u>Private Club</u>	<u>1 per seat, based upon maximum capacity</u> <del>1 per 75 sq. ft.</del>
<u>Recreational facilities</u>	<u>1 per 200 sq.ft. of gross floor area in any buildings of all structures, plus 1 for every 3 persons the facility is designed to accommodate</u>
<u>Restaurant</u>	<u>1 per 3 seats, based upon maximum seating capacity</u>
<u>Sawmills</u>	<u>1 for every 2 employees or contractors</u>
<u>Single family residential</u>	<u>2-1.5</u>
<u>Special and/or hazardous waste facility</u>	<u>1 for every 2 employees or contractors</u>
<u>Timber harvesting</u>	<u>1 for every 2 employees or contractors</u>
<u>Two-family residential</u>	<u>2 per dwelling</u>

**Comment [DDS174]:** Consolidated standard use-grouping

**Comment [DDS175]:** Consolidated with use grouping (above)

**Comment [DDS176]:** Parking did not account for staff beyond manager.

**Comment [DDS177]:** Adjusted to occupancy in lieu of size

**PORTER LAND USE ORDINANCE**

Small businesses which are similar in operational nature, traffic generation, and potential off-site impacts to uses listed as permitted, as determined by the Planning Board

Same as most similar use listed above, as determined by the Planning Board

5. Schedule of Minimum Off Street Parking Requirements:

<u>LAND USE</u>	<u>REQUIRED NUMBER OF SPACES</u>
Single family residential.....	2
Two-family residential.....	2 per dwelling unit
Multi-family residential.....	1 1/2 per dwelling unit
Bed and breakfast.....	see performance standard in Section V
Boarding house.....	see performance standard in Section V
Educational Facility- Primary School....	1 1/2 per classroom
Secondary.....	8 per classroom
Post Secondary.....	1 per student plus 1 per staff and faculty
Hotel.....	1 for every room rented, plus spaces required for any restaurant facility as required
Home occupations.....	2 for the dwelling plus 2
Low impact commercial.....	1 per 400 sq.ft. of gross floor area
High impact commercial.....	1 per 200 sq.ft. of gross floor area
Restaurant.....	1 per 3 seats, based upon maximum seating capacity
Kennel and veterinary hospital.....	1 per 200 sq.ft. of gross floor area
Low impact industrial.....	1 per 400 sq.ft. of gross floor area
High impact industrial.....	1 per 200 sq.ft. of gross floor area
Mineral exploration and extraction.....	1 for every 2 employees
Ground or spring water extraction.....	1 for every 2 employees
<u>LAND USE</u>	<u>REQUIRED NUMBER OF SPACES</u>
Marina.....	1 per 200 sq.ft. of gross floor area
Special and/or hazardous waste facility....	1 for every 2 employees
Automobile graveyard and junkyard.....	1 for ever 2 employees
Garage and yard sales.....	see performance standard in Section V
Private Club.....	1 per 75 sq.ft. of gross floor area
Civic and social service.....	1 per 300 sq.ft. of gross floor area
Places of worship.....	1 per 4 seats in the portion used for worship, plus 1 per 200 sq.ft. of floor area not used for worship
Parks.....	1 per 200 sq.ft. of gross floor area in any buildings, plus 1 for every 3 persons the facility is designed to accommodate
Recreational facilities.....	1 per 200 sq.ft. of gross floor area in any buildings, plus 1 for every 3 persons the facility is designed to accommodate
Mobile home parks.....	1 1/2 per dwelling unit
Agriculture.....	1 for every 2 employees

**PORTER LAND USE ORDINANCE**

Timber harvesting.....	1 for every 2 employees
Sawmills.....	1 for every 2 employees
Garden nurseries.....	1 per 1,000 sq.ft. of lot area used for storage, display, or sales
Grain and feed stores.....	1 per 1,000 sq.ft. of display and sales gross floor area
Antique stores.....	1 per 400 sq.ft. of gross floor area
Neighborhood grocery and Convenience stores.....	1 per 150 sq.ft. of gross floor area
Farm produce stands.....	1 per 1,000 sq.ft. of lot area used for storage, display, or sales
Auto repair shops.....	1 per 200 sq.ft. of gross floor area
Cabinetry and woodworking shops.....	1 per 400 sq.ft. of gross floor area
Carpentry and building contractors.....	1 for every 2 employees
Day care centers.....	1 for every 4 children for which the facility is licensed
Small businesses which are similar in operational nature, traffic generation and potential off-site impacts to uses listed as permitted, as determined by the Planning Board.....	same as most similar use above, as determined by the Planning Board

**Comment [J178]:** Coordinated with LUO and Comprehensive Plan into consolidated reference chart. (Above)

**Comment [DDS179]:** Clarification and coordination with LUO - No uses should store, block, or load on a public way (without proper approval, notification, and flagging/police escort, if needed) - Prescriptive.

**6. 9. Off-Street Loading**

In any District where permitted or allowed, ~~commercial or industrial~~ all uses shall provide, as necessary, off-street loading facilities located entirely on the same lot as the building or use to be served, so that trucks, trailers and containers shall not be located for loading or storage upon the traveled portion of any public way.

**7. 10. Additional Requirements in the Shoreland Zone:**

- (a) Parking areas shall meet the shoreline and tributary stream set back requirements for structures. If the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream, the set back requirement for parking areas serving public boat launching facilities shall be no less than ~~fifty (50)~~ feet, horizontal distance, from the shoreline or tributary stream.
- (b) Parking area shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (c) In determining the appropriate size of proposed parking facilities, the following shall apply:
  - i. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - ii. Internal travel aisles: Approximately twenty (20) feet wide.
  - iii. NOTE: An applicant's engineered parking developments may require greater space dimensioning.

**I. Preservation of Landscape.**

~~The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Parking lots shall be landscaped with shrubbery along all lot lines. Boundaries with existing residential properties shall be screened according to the buffering standards in this Ordinance. Parking lots with 25 or~~

PORTER LAND USE ORDINANCE

more spaces shall be landscaped with at least 1 tree (of 2" caliper measured 3 1/2 feet above the ground) for every 5 car spaces, to be located at representative points throughout or around the lots;

Comment [J180]: Relocated to Article III General Requirements and consolidated landscaping into a buffering/screening chart

**D. Refuse Disposal.**

1. All land uses and activities shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. ~~The Planning Board shall consider the impact of particular industrial or chemical wastes or by-products upon the town's facilities (in terms of volume, flammability or toxicity) and may require the applicant to dispose of such wastes elsewhere.~~

Comment [J181]: Not legal per Common Law - Case Law: Re-worded in the revised text for a more stringent requirement and burden of proof-based.

2. ~~The Board may require~~ If applying for a Land Use Permit, the applicant is to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation, to evaluate if there is an impact due to the particular industrial or chemical waste or by-products upon the town's facilities (in terms of volume, flammability, or toxicity).

3. Reference Article IV Section 4.2 Landscaping Buffer and Screening for general and specific requirements related to refuse.

Comment [DDS182]: Clarification and affirmative.

4. Reference Article 8.2 Definitions (Junkyard and Automobile Graveyard) and Article V (Automobile Graveyard or Junkyard / Garage and Yard Sales) for more specific information regarding the definition and treatment of various forms of refuse.

Comment [DDS183]: Buffering and Screening consolidated into 4.2

5. Other automobile related activities not regulated under Title 30-A Section 3752 Subsection 1 are to have each vehicle removed from the site within 180 days of receipt of title by the business and meet the requirements of Article VI (Landscape Screening & Buffering).

a.) EXCEPTION: An automobile hobbyist must comply with the following requirements:

1. Screening and buffering of hobbyist vehicles in accordance with Article IV (Landscape Screening & Buffering).

2. Three (3) or more hobbyist unregistered or uninspected vehicles exposed to public view must be stored or parked in an enclosed structure.

Comment [DDS184]: ordinance language is insufficient to effectively and legally be enforced.

3. Storage or parking of hobbyist automobiles shall be at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds and rivers that flow to great ponds, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or upland edge of a wetland, except that in the General Development District the setback from the normal high-water line shall be at least two hundred fifty (250) feet.

Comment [DDS185]: Added guidance for environment protection

A. 6. Other articles of salvage or refuse (See Article 8.2 Definitions – Junkyards), shall have setbacks and visual screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties. Stockade fence or a dense evergreen hedge six (6) feet or more in height is required for buffering/screening these uses, (unless specifically noted otherwise in the Article IV Section 4.2 N table below): Where a potential safety hazard to children would likely arise, physical screening to deter small children from entering the premises shall be provided and maintained in good condition. For public safety and access, no materials may placed within the Right-of-Way of the road

Comment [PB186]: A consideration for violations of the front setback and public services needs (shoulder, emergency services, road repair, plowing, brush-cutting, ditching, etc.)

**K. Relation of Proposed Building to Environment.**

Proposed structure and changes in existing structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings. In areas with a high concentration of historic properties, the Planning Board may require new construction to utilize exterior building materials which harmonize with surrounding properties, and be designed so as not to be architecturally incompatible in terms of scale, height, window size, and roof pitch. Solar access shall also be considered.

## PORTER LAND USE ORDINANCE

### **Q. Roads and Driveways**

1. New lots as of March 18, 2006, whether or not they are created as part of a subdivision, shall have at least the minimum amount of frontage on a public or private street, as required by [Article III](#), Section 3.2.

1.A. All developments containing fifteen (15) or more dwelling units may be required by the Planning Board to have more than one street access (for emergency and safety purposes), and no more than two (2) accesses shall be allowed on any single street or roadway.

**Comment [J188]:** Consolidation into appropriate performance section for clarity

1.B. Keeps all driveway entrances and exits free from visual distraction higher than three (3) feet above street level for a distance of twenty-five (25) feet, measured along the intersecting driveway and street lines, in order to provide visibility for vehicles entering and leaving the premises

**Comment [J189]:** Relocation into appropriate performance section for clarity

2. Roads and Driveways Constructed Within the Shoreland Zone.

- (a) Roads and driveways shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond or a river, and seventy five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, unless no reasonable alternative exists as determined by the Planning Board or CEO. If no other reasonable alternative exists, the road and/or driveway set back requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.
- (b) On slopes of greater than 20% the roads and/or driveway set back shall be increased by ten (10) feet, horizontal distance, for each 5% increase in slope above 20%.
- (c) Subsections 4.2.L.2.a and & b (above) do not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Subsection 4.2.L.2.a and & b (above) except for that portion of the road or driveway necessary for direct access to the structure.
- (d) Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.
- (e) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (f) No road and driveway banks may be steeper than a slope of 2 horizontal to 1 vertical (2:1) and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Subsection 4.2.Q.
- (g) No road and driveway grades may be greater than 10% except for segments of less than two hundred (200) feet.

**Comment [J190]:** CEO and PB determine - this is conflicting (depending on use and location), it is covered in Article I, II, and III. Redundant.



**PORTER LAND USE ORDINANCE**

- (h) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least fifty (50) feet, plus two (2) times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (i) Ditch relief (cross drainage) culverts, drainage dips, and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this the following applies:
  - (1) Ditch relief culverts, drainage dips, and associated water turnouts shall spaced along the road, or driveway at intervals no greater than indicated in the following table:

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

Comment [PB191]: Consolidated into an easier to read chart (below)

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

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

Comment [JT192]: Grammar

**M. R. Sanitary Standards**

## PORTER LAND USE ORDINANCE

1. All subsurface sewage disposal facilities shall be installed in conformance with the Maine Subsurface Waste Water Disposal Rules, and if located within two hundred fifty (250) feet of any water body, with the following:
  - a. All subsurface sewage disposal systems shall be located in areas of suitable soil at least one thousand (1,000) square feet in size.
  - b. The approval of building permit applications are subject to presentation of a completed site evaluation form (HHE-200) which evidences adequate soil conditions for wastewater disposal
  - c. When two (2) or more lots or buildings in different ownership share a common subsurface disposal system, the system shall be owned and maintained in common by an owners' association. Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.
  - d. The disposal of industrial or commercial wastewaters by means of subsurface wastewater treatment systems shall comply with the laws of the State of Maine concerning water pollution.
  - e. Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland.
  - f. A holding tank is not allowed for a first-time residential use in the Shoreland zone.

~~NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.~~

~~2. Holding tanks designed to receive and retain wastewater from residential or commercial uses are allowed for replacement systems when no other practical alternative exists or for temporary use.~~

~~3. Holding tanks MAY NOT be used for seasonal conversions, new systems, or first time residential use within the Shoreland zone.~~

~~2-4.~~

- a. Replacement system. The Licensed Plumbing Inspector may approve the permanent use of a holding tank to replace a malfunctioning system or an alternative toilet (outside of Shoreland Limits) only when all the following facts have been established:
  - (1) present system poses a threat to water quality, public health, or the environment;
  - (2) repair or alteration of the system is not feasible due to site condition or lot configuration;
  - (3) public sewers or multi-user systems are not available;
  - (4) gray water is discharged to a full size disposal field or the holding tank;
  - (5) water conservation plumbing fixtures are installed; and
  - (6) a deed covenant is required to warn potential buyers that a holding tank is present.
- b. Temporary system. Temporary use is authorized during construction of replacement systems, but may not exceed sixty (60) days.
- e. ~~Owners of replacement system holding tanks shall be able to show the Licensed Plumbing Inspector that the tanks are being pumped.~~

~~3. Holding tanks may not be used for seasonal conversions or for new systems in the Shoreland zone.~~

Comment [J193]: DEP stated should not be incorporated into a municipalities locally adopted ordinance.

Comment [J194]: Reinforces standard and consolidates and clarifies regulation

Comment [J195]: Reinforces standard and consolidates and clarifies regulation

Comment [J196]: Moved within this regulation to encompass all conditions

Comment [J197]: Relocated to a more appropriate regulatory prominence.

PORTER LAND USE ORDINANCE

4- 5. The Licensed Plumbing Inspector may allow a first time system holding tank (outside of Shoreland Limits) when:

- a. site conditions, or lot configuration does not allow installation of a disposal area;
- b. public sewers or multi-use systems are not available;
- c. gray water is discharged to a full size disposal field or the holding tank;
- d. water conservation plumbing fixtures are installed; and
- e. a deed covenant is required to warn potential buyers that a holding tank is present.

Comment [DDS198]: Reinforces standard and consolidates and clarifies regulation

5- 6. The requirements duties of the ALL owner of the holding tanks are:

- a. To maintain the holding tank in conformance with this or any other Ordinance of Porter, the provisions of any applicable law, and any administrative agency of the State of Maine.
- b. Retain copies of pumping records for three (3) years to show the Licensed Plumbing Inspector, upon request, that the tanks are being pumped.

Comment [DDS199]: Consolidation, clarification, and reinforcement of regulation.

Comment [J200]: Consolidation of regulation

**N. T. Setbacks and Landscape Buffers and Screening.**

Exposed storage areas, exposed machinery installation, sand and gravel extraction operations, and areas used for the storage or collection of discarded automobiles, auto parts, metal or any **other articles of salvage or refuse** (See Article 8.2 Definitions – Junkyards), shall have setbacks and visual screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties. Stockade fence or a dense evergreen hedge 6 feet or more in height is required for buffering/screening these uses, (unless specifically noted otherwise in the table below): (such as a stockade fence or a dense evergreen hedge 6 feet or more in height). Where a potential safety hazard to children would likely arise, physical screening to deter small children from entering the premises shall be provided and maintained in good condition.

Comment [DDS201]: Consolidation of relevant sections with chart

Vegetative Screening and buffering must be maintained seasonally to provide the intended performance.

**PORTER LAND USE ORDINANCE**

Use (By Type)	Review & Approval Authority	Required Undeveloped or Safety/Security Buffer (excludes driveways)	Buffer around Interior Lots, Structures, or between structures/roads on the Parcel	Continuous Exterior Buffer and/or fence (Yes/No)	Visual Landscape Buffer Depth at lot/ROW perimeter (Feet)	Visual Buffer Height (Feet)	Central Waste Collection Screen	Height of Central Waste Collection Screen (Feet)	Types of Approved Screening	General Notes
Automobile Graveyard and Junkyard	P	Yes (See General Note)	NA	Yes	50	6 (Min) 8 (min)	Wooded or Masonry	6	Stockade fence and a dense evergreen hedge	500 feet from any school, waterbody, or dwelling (other than that of the owner or operator of the Automobile Graveyard or Junkyard)
Automobile Hobbyist	CEO	Yes (See General Note)	3 or more unregistered or uninspected vehicles are to be parked or stored in an enclosed structure	Yes (See General Note)	NA	6 (min)	NA	NA	Stockade fence and a dense evergreen hedge	3 or more unregistered or uninspected vehicles not parked or stored in an enclosed structure requires a 100% continuous visual screening of these vehicles, consisting of fencing, safety and evergreen hedge (visual). No unregistered or uninspected vehicles are to be parked or stored near water bodies (Reference Article III Section 3.3A).
Campgrounds	P	Yes (See General Note)	NA	Yes	25-50	6	Wooded or Masonry	6	Evergreen shrubs, trees, fences, walls, landscaped earth berms, or any combination	The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back at least one-hundred (100) feet from the exterior lot lines of the campground.
Civic, social service uses, churches, and not-for-profit clubs	P	Yes - 20 FT	NA	Yes	20	6 (Min)	Wooded or Masonry	6	Stockade fence and a dense evergreen hedge	
Cluster Developments	P	Yes	Yes - 50 Feet (See General Note)	No Yes	25-50	6 (Min)	Wooded or Masonry	6	Evergreen shrubs, trees, fences, walls, landscaped earth berms, or any combination	The area of the lots in the cluster development shall be designed as a continuous landscaped buffer area not less than 50 feet in width which may contain no structures or streets.
Animal Husbandry (over 30 AEU or 300 AFO/CAFO)	P	Yes (See General Note)	NA	Yes	50	6 (min) 8 (min)	Wooded or Masonry	6	Stockade fence and a dense evergreen hedge	All pens, stables, barns, or other shelters for animals, including animals shall be set back at least two hundred (200) feet from any lot line.
High Impact Commercial & Industrial	P	Yes	NA	Yes	8-20	6 (Min)	Wooded or Masonry	6	Evergreen shrubs, trees, fences, walls, landscaped earth berms, or any combination	Parking and Loading on sides or rear ONLY
Hotels/Motels/Inns	P	Yes	NA	N	20	NA	Wooded or Masonry	6	Stockade fence and any combination of grass, bushes, flowers, and trees, evergreen shrubs, landscaped earth berms	
Kennels (Boarding or Breeding) & Veterinary Hospitals	P	Yes	NA	Yes	50	8 (min)	Wooded or Masonry	6	Stockade fence and a dense evergreen hedge	All pens or other shelters for animals, including animals, shall be set back at least two hundred (200) feet from any lot line.
Mineral Exploration & Extraction (> 3:1 Slope Excavations)	C	Yes - 10 FT	NA	Yes	NA	6	NA	NA	Fence (Safety)	To Limit Access; CEO Notification or Approval requirements per Article 3.4
Mobile Home Parks (2x Density of existing development, what is permitted in the zoning district, or neighboring land is undeveloped)	P	Yes - 50 FT	15 FT (See General Note)	Yes	25	6 (Min)	Wooded or Masonry	6	Evergreen shrubs, trees, fences, walls, landscaped earth berms, or any combination Stockade fence and a dense evergreen hedge	Structures may not be located less than 15 feet from any boundary lines of an individual lot
Mobile Home Parks (All other conditions)	P	Yes - 50 FT	15 FT (See General Note)	Yes	20	6 (Min)	Wooded or Masonry	6	Stockade fence and a dense evergreen hedge	Structures may not be located less than 15 feet from any boundary lines of an individual lot
Multi-Family Dwellings	P	Yes	NA	Yes	50	6 (Min)	Wooded or Masonry	6	Stockade fence and a dense evergreen hedge	
Parking Lots (Paved)	P	Yes	NA	Yes	20	6 (Min)	NA	NA	Stockade fence and a dense evergreen hedge	Parking lots with 20 or more spaces shall be paved and landscaped with at least 1 tree (of 2" caliper measured 3 1/2 feet above the ground) for every 5 car spaces, to be located at representative points throughout or around the lots.
Recreational Facility	P	Yes	NA	Yes	8	6 (min)	Wooded or Masonry	6	Stockade fence or walls and a combination of evergreen shrubs, trees, or landscaped earth berms	
Restaurants	P	Yes	NA	See General Note	8	6	Wooded or Masonry	6	Fences or walls and a combination of evergreen shrubs, trees, fences, walls, landscaped earth berms, or any combination	Continuous visual screening around parking lot and loading areas ONLY
Tire Storage & Disposal	P	Yes (See General Note)	Yes (See General Note)	Yes	150	6 (Min) 8	Wooded or Masonry	6	Stockade fence and a dense evergreen hedge	*There shall be a minimum one hundred fifty (150) foot buffer strip between the site boundaries and other property boundaries, wells and springs. A strip fifty (50) feet wide cleared to mineral soil shall be constructed and maintained on all sides of the tire pile. All grass, weeds, slash, brush and debris shall be removed for a distance of one hundred (100) feet in all directions outside the cleared mineral soil strip; trees need not be removed, except that green branches of conifers and dead branches of all trees shall be pruned to a height of ten (10) feet above the ground; dead snags of all trees shall be removed. No site boundary shall lie closer than three hundred (300) feet from any water body, to include intermittent streams.
Wireless Communication	P	Yes	Yes	Yes	NA	8 (Min)	NA	NA	Fence (Security)	To Limit Access
Motorized Vehicle Racing Facilities	P	Yes (See General Note)	NA	Yes	50	12 (min)	Wooded or Masonry	6	Stockade fence and a dense evergreen hedge	There shall be a minimum 200-500 foot buffer strip between the boundaries of the motorized vehicle racing facility and other property boundaries, wells, and springs. No portion of any motorized vehicle racing facility may be located within 500 yards of any school, any dwelling other than that of the owner or operator of the motorized vehicle racing facility, any water body (including wetlands and intermittent streams).
Special AND/OR Hazardous Waste Facilities	P	Yes - 1000 FT from public roads and other disposal areas	Yes - 5000 Feet from inhabitants and water supplies	Yes	50	6 (min) 12 (min)	Wooded or Masonry	6	Stockade fence and a dense evergreen hedge	The disposal areas within the overall site shall have a buffer zone of at least 1000 feet between other disposal areas and all public roads. The overall site shall be at least 5,000 feet from the nearest inhabited residence or potable water supply existing at the time at which the application is filed.

## PORTER LAND USE ORDINANCE

### ~~Q-U. Signs.~~

~~The standards and requirements for signs as stated in this section take precedence over all other references to signs in this Ordinance. This section governs all signs in the Town of Porter.~~

#### ~~1. General~~

- ~~(a) All signs shall comply with these requirements unless there is a specific exception.~~
- ~~(b) No sign may be positioned so as to prevent or block the free ingress to, or egress from, any door, window, or fire escape, or in a manner which confuses, impedes or impairs traffic movement or visibility.~~
- ~~(c) No sign may be erected adjacent to any public way in such a manner as to obstruct clear and free vision of roadways or where, by reason of its position, shape, color, illumination or wording, it interferes with, obstructs the view of, or is confused with any authorized traffic sign, signal, or device or where it otherwise constitutes a hazard to pedestrian or vehicular traffic.~~
- ~~(d) The owner of the land upon which a sign is located is responsible for its safe construction, installation, and maintenance.~~
- ~~(e) Except for State Business Directional, all signs shall relate to goods and services available on the premises where the sign is located, or to the availability of the premises themselves for sale, rent, or lease.~~
- ~~(f) The design of all signs requiring permits is subject to the approval of the Planning Board.~~
- ~~(g) No roof-mounted signs are permitted.~~

#### ~~2. Signs allowed without a permit include:~~

- ~~(a) State or local traffic, parking, or directional signs.~~
- ~~(b) Real estate "For Sale" signs provided they are no larger than 6 square feet in surface area. One sign per agent, per property is permitted. Signs shall be removed when the property is sold.~~
- ~~(c) Rental vacancy signs which are no larger than 3 square feet in total surface area.~~
- ~~(d) Temporary political signs for periods not to exceed 30 days. Such signs shall be removed within 48 hours after the election.~~
- ~~(e) Temporary signs for public or private special events. Signs for events sponsored by the Town of Porter may be erected for no longer than 30 days. Signs for private events may not be erected earlier than 3 days prior to the commencement of the event and shall be removed within 24 hours of the closure of the event. Temporary special event signs may be no larger than 16 square feet in the aggregate.~~
- ~~(f) Signs which post land for no trespassing or no hunting without restriction as to number provided that no such sign shall exceed two (2) square feet in area.~~
- ~~(g) Signs erected for public safety and welfare.~~
- ~~(h) Private residential signs which are used to convey the inhabitants' names, property name, and safety or caution messages. Signs may be surface mounted or freestanding, but may not exceed 3 square feet in surface area.~~
- ~~(i) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.~~
- ~~(j) Temporary signs for special commercial sales are limited to 6 per year and may be displayed for only 7 consecutive days. Such signs may not be larger than 16 square feet in surface area. Written application to the Code Enforcement Officer is required.~~

#### ~~3. Signs which may be authorized by the Planning Board.~~

- ~~(a) Educational and religious uses may display 1 sign for each building not exceeding 32 square feet in total surface area per sign.~~

**PORTER LAND USE ORDINANCE**

- ~~(b) Home occupations signs relating only to goods or services available on premises, which may be surface mounted or free standing but may not exceed 3 square feet in surface area and the top edge 6 feet in height. Only 1 home occupation sign is permitted per premises.~~
- ~~(c) Commercial signs related to goods or services available on the premise.
  - ~~(1) Commercial signs may not exceed 32 square feet in area when mounted flat against the building surface. Such signs, individually and collectively, may at no time cover more than 10% of the gross surface area of the building face on which they are mounted. On each premise only 1 sign per occupancy may be affixed to the building exterior, except occupancies which face more than 1 public way, with no other property between the lot occupied by the building which the commercial use occupies and the public way, may have one attached sign on each side of the building which faces a public way.~~
  - ~~(2) Commercial signs that are mounted perpendicular to a building face, or that are freestanding may not exceed 32 square feet in sign area. Both surfaces of such signs are counted in calculating the sign area. Brackets, posts, or other means of support for them shall be designed to be as inconspicuous as possible. In reviewing sign designs, the Board may include oversize support systems as part of the sign area. Free standing signs are limited in number to 1 per building, except that:
    - ~~(a) Where 1 occupant occupies more than 1 building per lot or combination of lots mutually adjoining and in common ownership, only 1 freestanding sign is permitted.~~
    - ~~(b) 2 freestanding signs are permitted on a corner lot provided that both signs are no less than 40 feet from the right of way corner.~~
    - ~~(c) The top edge of any freestanding sign may not be higher than 15 feet above the street grade nearest the sign supports. Freestanding signs may not be closer than 10 feet to the street right of way nor closer than 12 feet to either side lot line.~~~~
  - ~~(3) Notwithstanding the size requirements above, no sign within the shoreland zone may have sign area exceeding 6 square feet.~~~~

The standards and requirements for signs as stated in this section take precedence over all other references to signs in this Ordinance.

**Comment [DDS202]:** This section was coordinated and standardized, ambiguities and conflicts were clarified, and commissioned with the Comprehensive Plan - Commercial signage regulations enhanced. Overall chart provided.

**PORTER LAND USE ORDINANCE**

SIGNAGE REFERENCE CHART (Sign Type-Use)	MAX # of signs permitted	Allowed	Permit Required	Max face SF (side)	Max SF (Within Shoreland Zone)	Days up Prior to Event/Sale	Days up After Event/Sale	Maximum Sign is Up (Days)	Mounted or Freestanding	# of Times Per Year	Height to Top of Sign (FT)
Roof Sign	0	NO	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
"For Sale" of the premises (Real Estate Entity)	n/a	Yes	No	6	6	Unrestricted	0-10	Until Sold	n/a	n/a	6
Political Signs (Temporary)	n/a	Yes	No	n/a	6	Up to 30 Days	2-10	30	n/a	n/a	n/a
Special Event PUBLIC Signs (Temporary)	n/a	Yes	No	16	6	Up to 30 Days	10	30	n/a	n/a	n/a
Special Event PRIVATE Signs (Temporary)	n/a	Yes	No	16	6	Up to 30 Days	2-10	30	n/a	n/a	n/a
No Trespassing or No Hunting	n/a	Yes	No	2	2	n/a	n/a	n/a	n/a	n/a	n/a
Public Safety & Welfare Signs	n/a	Yes	No	n/a	6	n/a	n/a	n/a	n/a	n/a	n/a
Private residential	n/a	Yes	No	3	3	n/a	n/a	n/a	n/a	n/a	n/a
Flags and insignia of any government	n/a	Yes	No	n/a	6	n/a	n/a	n/a	n/a	n/a	n/a
Legal notice, identification, information, or directional signs erected or required by government bodies	n/a	Yes	No	n/a	6	n/a	n/a	n/a	n/a	n/a	n/a
State or local traffic, parking, directional signs, or signs erected for public safety and welfare within the ROW, not associated with large engineered developments, are to be addressed by the municipality	n/a	Yes	No	n/a	6 - Signs related to Public Safety are EXEMPT from SF limitations	n/a	n/a	n/a	n/a	n/a	n/a
Private residential signs which are used to convey the inhabitants' names, property name, and safety or caution messages.	n/a	Yes	No	3	3	n/a	n/a	n/a	Surface Mount or Freestanding	n/a	n/a
"For Sale, Rental, or Lease" of the premises (By users and owners)	n/a	Yes	No	3	3	n/a	n/a	n/a	n/a	n/a	n/a
Special Commercial Sales (Temporary)	n/a	Yes	Yes - CEO	16	6 in the Shoreland Limited Residential, such signs shall not exceed two (2) (16) square feet signs per premises.	Up to 10 Days	2	10	n/a	6-12	n/a
Home Occupations (Per Lot) (*see notes below)	1-4*	Yes	No	3-16	6 in the Shoreland Limited Residential, such signs shall not exceed two (2) signs per premises and sixteen (16) square feet in area per sign.	n/a	n/a	n/a	Surface Mount or Freestanding	n/a	6
Commercial (*see notes below)	6-4	Yes	Yes - CEO	32	6 in the Shoreland Limited Residential, such signs shall not exceed two (2) signs per premises and sixteen (16) square feet in area per sign.	n/a	n/a	n/a	Surface Mount or Freestanding	n/a	15-5.5 freestanding*
Educational, Non-for-Profit, and Religious (*see notes below)	Unknown (1-per-buildings-2) 4	Yes	Yes - CEO	32	6	n/a	n/a	n/a	Surface Mount or Freestanding	n/a	Unrestricted-5.5 freestanding*

**Comment [PB203]:** Introduces missing time limits, and extend timelimits to reasonable and competent expectations.

**Comment [JT204]:** A vehicle traveling at a speed of 45 MPH (town mandated speed), travels 66 feet per second. A 12" letter has a readable distance of 120'. The driver of a car travelling at 45 MPH towards the sign, would have approximately 2 seconds to read, comprehend and possibly react to the sign's message (stop in and purchase a product or service in Porter). Research shows that for a message that is only 3 or 4 words long, the read/comprehend/react time is closer to 8 rather than 2 seconds (and more for older viewers). For many existing businesses in the area, it would be worthless to spend money to put a sign up in Porter that is illegible until the car is 400 feet down the road, past the sign. Text consolidated, MEDEP regulations ADDED, omitted information proposed, coordinated with engineering, and the Town comprehensive plan. Sign height was lowered to 5.5 feet (from 15 feet), and sign quantity reduced for commercial.

n/a = not applicable, unrestricted

**1. General**

(a) All signs shall comply with these requirements unless there is a specific exception.

## PORTER LAND USE ORDINANCE

- (b) Text and Graphics for two-sided signs may cover both sides of the sign(s), and are not included in the SF limitations of the sign structures (See specific limitations below in #2).
- (c) A combination of "Temporary signs for public or private special events" and "Temporary Signs for Special Commercial Sales" can be utilized on the premises, in accordance with the Signage Reference Chart, and will not be counted in calculating the Commercial or Home Business sign area.
- (d) No sign may be positioned so as to prevent or block the free ingress to, or egress from, any door, window, or fire escape, or in a manner which confuses, impedes, or impairs traffic movement or visibility.
- (e) No sign may be erected adjacent to any public way in such a manner as to obstruct clear and free vision of roadways or where, by reason of its position, shape, color, illumination or wording, it interferes with, obstructs the view of, or is confused with any authorized traffic sign, signal, or device or where it otherwise constitutes a hazard to pedestrian or vehicular traffic.
- (f) The owner of the land upon which a sign is located is responsible for its safe construction, installation, and maintenance.
- (g) Except for State Business Directional, all signs shall relate to goods and services available on the premises of where the sign is located, or to the availability of the premises themselves for sale, rent, or lease.
- (h) The design of all signs involved in Land Use Application Permits required to be reviewed by the Planning Board are subject to the approval of the Planning Board.
- (i) Permanent freestanding signs may not be closer than ten (10) feet to the street right-of-way nor closer than ten (10) feet to either side lot line.

### 2. \*Additional Requirements for signs which require authorization by the CEO

- (a) Commercial, Educational, Religious, or Non-for-Profit signs may not exceed thirty-two (32) square feet in area when mounted flat against the building surface. Such signs, individually and collectively, may at no time cover more than 10% of the gross surface area of the building face on which they are mounted. On each premise only 1 sign per occupancy may be affixed to the building exterior, except occupancies which face more than 1 public way or is located on a corner lot, with no other property between the lot occupied by the building which the commercial use occupies and the public way, may have one attached sixteen (16) square foot sign on each side of the building which faces a public way.
- (b) Commercial, Educational, Religious, or Non-for-Profit signs that are mounted perpendicular to a building face, or that are freestanding may not exceed thirty-two (32) square feet in sign area, per side. Brackets, posts, or other means of support for them shall be designed to be as inconspicuous as possible. Signs are to be ground mounted, surrounded with landscaping or



PORTER LAND USE ORDINANCE

masonry, not exceed 54' in height, and be comprised of earthtones or other colors native to the region.

In reviewing sign designs, the CEO (or Board, if incidental to a Land Use Application Permit) may include oversize support systems as part of the sign area.

(c) Free-standing signs are limited in number to one ( 1) per buildinglot, except that:

(d) Two (2) freestanding signs are permitted on a corner lot in lieu of mounting signage flat to a building, provided that both signs are no less than forty (40) feet from the right-of-way corner, ground mounted, and no less than 66'' in height from the uppermost grade.

(e) Total signage surface area (not the rear of single sided signs), regardless of the combination of surface mount or freestanding utilized, must not exceed 128 square feet per lot.

3. All freestanding or surface mounted permanent signs are to be surrounded with either landscaping or masonry, and be comprised of earthtones or other colors native to the region.

4. Illumination of signs.

(a) No sign may be illuminated with flashing, moving or animated-type lights.

(b) Illuminated signs may be illuminated with shielded white lights only.

5. Exceptions

The above regulations 1 and 2 above do not apply to the following:

(a) Flags and insignia of any government.

(b) Legal notice, identification, information, or directional signs erected or required by government bodies.

(c) State or local traffic, parking, directional signs, or signs erected for public safety and welfare within the ROW, not associated with large engineered developments, are to be addressed by the municipality.

6. Restoration or replacement.

(a) This Ordinance allows the normal upkeep and maintenance of existing non-conforming signs; repairs, renovations and maintenance which does not involve enlargement of the existing non-conforming signs.

(b) Any existing non-conforming sign which is hereafter damaged or destroyed by a cause other than the willful act of the owner or his agent, may be restored or reconstructed within year five (5) years of the date of said damage or destruction.

**P. O. Solar Consideration.**

1. When solar energy systems are proposed which are not attached to a house, they shall meet the setbacks set forth in Article III 3.2 Dimensional Standards for the affected district, be set back at least 10 feet from side and rear lot lines, and 25 feet from the right-of-way line or 50 feet from the center line of a road, whichever distance is greater.

2. Solar energy systems shall be set back seventy-five (75) feet from the normal high water line and shall meet the standards in Article V for "Timber Harvesting within the Shoreland Zone", and "Clearing of Vegetation in a Shoreland Zone for Activities Other than Timber Harvesting for Development". Approval for solar energy systems closer than seventy-five (75 feet) from the normal high water line may be approved by the Planning Board if the following conditions can be met:

Comment [DDS205]: Reoriented within regulation for efficiency of information access

Comment [DDS206]: Few dynamic changes in the life situation of people (ie death, sickness, divorce, relocation, job change, tragedy) can be reasonably resolved in a year. This regulation is indifferent to the human condition and the approved Comprehensive Plan.

Comment [DDS207]: Coordinate and simplify text with Article III Dimensions

Comment [J208]: There are no standards for Solar in Article V, and should not be Article V standards, as this use is secondary and incidental to the primary use per 2.c.

Comment [J209]: Repealed

Comment [DDS210]: Omitted DEP title replaced.

PORTER LAND USE ORDINANCE

- a- the area within the setback in which the solar structure is proposed must be a legally existing clearing (e.g. existing lawn);
- b- any additional vegetation removal necessary must conform to the vegetation removal provisions within the ordinance; and
- e- the extent of a proposed solar energy project must be limited by design to the energy needs of the existing use on the property. Sale of energy to the power grid or others must be limited to incidental excess power generation.

4.3. Projects designed for commercial generation of power must comply with structure setback requirements. In no case may the system be located less than 30-fifty (50) feet from the normal high water line.

Comment [DDS211]: Coordinated with LUO regulations and the Comprehensive Plan

3.4. Solar energy systems in the Shoreland District are subject to design approval by the Planning Board to ensure the systems are visually compatible with adjacent land uses.

Comment [DDS212]: Redundant

4. 5. Lot coverage requirements of this Ordinance do not apply to solar energy systems.

6. Non-functioning remote solar systems left idle for three (3) years, whether obsolete, abandoned, or deteriorated, are to be removed completely by the owner of record, including appurtenances, panels, wiring, battery arrays, frames, and foundations. The affected areas are to be graded, re-seeded, and restored to the surrounding terrain.

7. The requirement of ALL owners of an on-site solar system is to provide proof of a deed covenant to warn potential buyers that a battery array is present, if the system is intended to remain on the premises.

Comment [DDS213]: Added provisions to insure clean-up (similar to wireless towers) and to coordinate with the Comprehensive Plan

8. Remote solar systems require a visual vegetated buffer along all lot lines, excluding the entrance/curb cut to access and maintain the remote solar system.

Comment [JT214]: Competent and reasonable regulation, in-line with the comprehensive plan and the land use ordinance related to other significant developments.

**Q.-P. Soils and Soil Erosion Control.**

1. Soils.

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

Comment [DDS215]: This does not account for existing systems and uses that do not exceed system capacity - These are typically addressed by a Licensed Plumbing Inspector Report/letter.

2. Soil Erosion and Sedimentation Control (During Construction).

Comment [DDS216]: Clarification

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by the following erosion control management practices.

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

## PORTER LAND USE ORDINANCE

- (b) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (c) The stripping of vegetation, removal of soil, re-grading or other development of the site shall be accomplished by limiting the duration of exposure and area of the site to be disturbed. Dust control methods shall be employed during dry conditions.
- (d) Temporary vegetation, mulching, and/or siltation fabrics shall be used to protect critical areas during the development. Sedimentation of run-off waters shall be trapped by debris basins, silt traps, sediment basins or other methods determined acceptable by the review authority. Any exposed ground area shall be temporarily or permanently stabilized (within one (1) week from the time it was last actively worked if within a two hundred fifty (25) foot Shoreland buffer), by use of riprap, sod, seed, and mulch, or other effective measures. In addition:
- (1) Where mulch is used within Shoreland Districts, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
  - (2) Anchoring the mulch with netting, peg and twine, or other suitable method may be required to maintain the mulch cover.
  - (3) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (e) In all cases permanent stabilization should be installed prior to completion of the construction, but within Shoreland districts, shall occur within nine (9) months of the initial date of exposure.
- (f) The top or bottom of a cut or fill may not be closer than ten (10) feet to a property line unless otherwise mutually agreed to by the affected landowner and town but in no instance may said cut or fill exceed a 3:1 slope.
- (g) Within a Shoreland Zone all activities which involve filling, grading, excavation, or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
- (1) Mulching and revegetation of disturbed soil.
  - (2) Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.
  - (3) Permanent stabilization structures such as retaining walls or riprap.
- (h) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

~~(h)~~ (i) Sedimentation and erosion control plans will be reviewed by the Oxford County Soil and Water Conservation District whenever there is significant risk of sedimentation or erosion or upon request of the Planning Board.

Comment [J217]: Clarification

Comment [DDS218]: Clarification

Comment [J219]: Clarification

Comment [DDS220]: Consolidation and coordination of LUO

Comment [DDS221]: Clarification

### **R- V. Storm Water Run-Off (After Construction).**

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff

**PORTER LAND USE ORDINANCE**

control features, such as berms, swales, terraces, and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters. Design period is 50-year storm.

2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.
3. Within 250 foot Shoreland Buffer: Sedimentation and erosion control plans will be reviewed by the Oxford County Soil and Water Conservation District whenever there is significant risk of sedimentation or erosion or upon request of the Planning Board.

**Comment [DDS222]:** Coordination and consolidation of LUO

NOTE: The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.

**Comment [J223]:** DEP stated should not be incorporated into a municipalities locally adopted ordinance, but is useful. Retain.

**S. F. Water Quality Protection.**

1. No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
2. No person, land use, or activity may locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run-off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, a taste or unsightliness or be harmful to human, animal, plant or aquatic life.
3. Evaluate neonicotinoid pesticides, herbicides, and fungicides anticipated for the use, as it may negatively affect the town's water quality.
4. All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes, and potentially harmful raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which is high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 50-year storm, so that such liquid is not able to spill onto or seep into the ground surrounding the paved storage area.
5. NOTE: Storage tanks for home heating oil and diesel fuel, not exceeding 275 gallons in size, are exempted from this requirement, if they are not located over a high seasonal water table (within 15" of the surface) or over rapidly permeable sandy soils.

**Comment [DDS224]:** Additional consideration and discussion regarding uses utilizing neonicinoids, pesticides, herbicides, fungicides.

4-6. Phosphorus Control.

- (a) New development shall be designed and constructed to limit the phosphorus export to the values contained in the table below:

<b>Per Acre Phosphorus Allocation, by Great Pond Watershed</b>	
Great Pond Watershed	Per Acre Allocation (lbs. Phosphorus/Acre/year)
Bickford	.092
Black Bog	.048
Chapman	.060
Coleord	.087

**PORTER LAND USE ORDINANCE**

Mine	.110
Plain	.061
Spectacle 1	.070
Spectacle 2	.062
Stanley	.100
Trafton	.057

**Comment [PB225]:** Consolidated into an easy-to-read chart (below)

<b>Per Acre Phosphorus Allocation, by Great Pond Watershed</b>	
<b>Great Pond Watershed</b>	<b>Per Acre Allocation (lbs. Phosphorus/Acre/year)</b>
Bickford	0.092
Black Bog	0.048
Chapman	0.06
Colcord	0.87
Mine	0.11
Plain	0.061
Spectacle 1	0.07
Spectacle 2	0.062
Stanley	0.1
Trafton	0.057

~~(b) The following types of development qualify for a simplified method of determining the phosphorus export.~~

- ~~(1) A new single family or two family dwelling with a cumulative driveway width not exceeding 450 feet, not located in a subdivision approved by the Porter Planning Board after the effective date of this Ordinance.~~
- ~~(1) Non-residential development and multifamily housing with less than 20,000 square feet of disturbed area including parking, lawn, septic~~
- ~~(2) system, infiltration area, building and a road not exceeding 200 linear feet.~~

~~The above uses are deemed to comply with the phosphorus export standards of 3.(a) above if a permanent, vegetated buffer strip is located downhill from the developed portion of the lot according to the requirements of the tables in appendix A of this Ordinance, whichever applies according to great pond watershed. On an existing lot of record that is smaller in size than what is required in the table, the applicant shall meet the buffer width requirement of the maximum extent possible. The "Clearing Restricted" buffer widths apply on lots on which clearing of wooded vegetation is restricted, by deed covenants and permit conditions, to no more than 12,500 square feet in area.~~

~~(c) Developments which do not meet the criteria for the simplified review shall prepare a phosphorus export analysis in accordance with the methodology contained in *Phosphorus Control in Lake Watershed: A Technical Guide to Evaluating New Development*, published by~~

## PORTER LAND USE ORDINANCE

~~the Maine Department of Environmental Protection, September 1992 Revision. An applicant for a land use permit whose development qualifies for the simplified review, but who chooses to not meet the buffer strip requirements contained in Tables 1 through 7 above may, instead, use the methodology in the *Technical Guide* to show that the proposed development will meet the phosphorus export standards of 3(a) above.~~

~~(d) Occupants and property owners shall maintain vegetated buffer strips and, if applicable, other phosphorus control measures in accordance with the buffer maintenance requirements contained in Section 5.3 of the *Technical Guide*.~~

~~(b) Occupants and property owners shall maintain vegetated buffer strips and, if applicable, and other phosphorus control measures in accordance with the buffer maintenance requirements contained in the Maine Stormwater BMP (Best Management Practices) Manual – March 2016 Revision (<http://www.maine.gov/dep/land/stormwater/stormwaterbmps/#manual>).~~

**Comment [DDS226]:** There is no 1992 Revision of Phosphorus Control in Lake Watershed: A Technical Guide to Evaluating New Development, published by the MEDEP September 1992 revision or Appendix A on file, attached to ordinances, or available to individuals or the planning board. Unenforceable.

**Comment [DDS227]:** This is the replacement for out-dated regulations.

### **T. B. Water Supply.**

Prior to the issuance of any occupancy permit for any structure with a potable water supply system or a use requiring providing public drinking water, a water quality analysis demonstrating that the State of Maine Safe Drinking Guidelines are met shall be submitted to the Code Enforcement Officer.

### **U. O. Other Regulations Apply.**

The applicant is responsible for complying with all applicable local, county, state, and federal laws and regulations.

### **V. R. Preservation of Historic and Archaeological Resources.**

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

**Comment [JT228]:** word selection error (rending means to tear into pieces, wrench violently, or cause emotional pain).

Any proposed land use activity involving structural development or soil disturbance on sites listed on, or eligible to be listed on the National Register of Historic Places, as designated in the Comprehensive Plan, or structures in the Village District constructed earlier than the year 1901 and outlined in the Parsonsfield-Porter Historical Society 2006 Edition of "Porter Maine 200 Years", shall be submitted by the applicant to the Maine Historic Preservation Commission and the Porter-Parsonsfield Historical Society for review and comment at least twenty-five (25) days prior to satisfactory review being taken by the permitting authority. The permitting authority may consider comments from the Commission and/or the Parsonsfield-Porter Historical society if received prior to rendering a final decision on the application.

**Comment [JT229]:** Coordination with State Law and a competent and reasonable constraint to the regulation.

Exemptions: Structures regulated under Article 17 § 2851 - Dangerous Buildings

**Comment [JT230]:** Coordination with State Law and a competent and reasonable constraint to the regulation.

### **W. U. Essential Services in the Shoreland Zone.**

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to proved services to a permitted use

## PORTER LAND USE ORDINANCE

within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

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

### V. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal within Shoreland.

(1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.

(b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater,

replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.

(c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

(d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

(e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

(2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:

(a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:

(i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;

## PORTER LAND USE ORDINANCE

- (ii) Stumps from the storm-damaged trees may not be removed;
- (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
- (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.

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

Comment [PB231]: MEDEP 2015 Chapter 1000 Additions

### X. Exemptions to Clearing and Vegetation Removal Requirements within Shoreland

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 4.2-B (Clearing or Removal of Vegetation for Activities Other than Timber Harvesting), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 4.2-B (Clearing or Removal of Vegetation for Activities Other than Timber Harvesting) apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of this ordinance and Article V Section 5.3 are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
  - (a) A coastal wetland; or
  - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.



## PORTER LAND USE ORDINANCE

(6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:

(a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

(b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and

(c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

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**NOTE:** An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program:  
[http://www.maine.gov/dacf/mnap/features/invasive\\_plants/invasives.htm](http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm)

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(7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

Comment [PB232]: MEDEP 2015 Chapter 1000 additions

### **W. Revegetation Requirements within Shoreland.**

When revegetation is required in response to violations of the vegetation standards set forth in Article IV Section 4.2 - Clearing or Removal of Vegetation for

Development in a Shoreland Zone, to address the removal of non-native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

(1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

(2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed;

(3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.

(4) Revegetation activities must meet the following requirements for trees and saplings:

(a) All trees and saplings removed must be replaced with native noninvasive species;

(b) Replacement vegetation must at a minimum consist of saplings;

**PORTER LAND USE ORDINANCE**

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

3- minimum of five (5) years.

**Comment [PB233]:** MEDEP 2015 Chapter 1000 Additions

PORTER LAND USE ORDINANCE

ARTICLE V. PERFORMANCE STANDARDS - SPECIFIC ACTIVITIES AND LAND USES

The following performance standards apply to specific activities and land uses as intended in the Comprehensive Plan, to balance the rights of land owners to use their land with the rights of abutting land owners and the general public, and to protect the public health, safety, and welfare

Comment [PB234]: The purpose of all regulations outside of state mandated shoreland and specific uses are to support the townspeople approved comprehensive plan as well as the individual property and privacy rights.

5.1 Accessory Buildings.

Comment [DDS235]: Moved to Article III for more efficient access and standardized

Accessory buildings shall be set back at least 10 feet from the side and rear lot lines in the Village District, and at least 25 feet in all other districts.

5.25.1 Adult Businesses.

- A. Location of adult businesses restricted.
  - An adult business may be located only:
    1. In the Village District, and
    2. In a location where the customer entrance to the adult business would be 1,000 feet or more, measured in a straight line without regard to intervening structures or objects, to the nearest point of the boundary of any property which is:
      - (a) occupied by a residence, school, park, playground, church, or public building; or
      - (b) occupied by another adult business.
- B. Outside displays prohibited.
  - No material or devises displaying or exhibiting specified sexual activities may be visible from the exterior of the building in which the adult business is located.
- C. Municipal review limited.
  - In a review of a proposed adult business under **Section VI, Land Use Permits**, the Planning Board's scope of review is limited to the impacts and effects of a proposed use as determined by applying the criteria which apply to any business use. The Planning Board may not consider the type or content of the material sold, rented, exhibited, or displayed in the business and may not restrict or limit the content of such materials.

5.35.2 Agriculture.

- A. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209~~4214~~). Manure may not be stored or stockpiled within one-hundred (100) feet, horizontal distance, of a great pond or river, or within seventy-five (75) feet, horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone shall be constructed or modified such that the facility produces no discharge or effluent or contaminated storm water.
- B. There may be no tilling of soil within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (50~~25~~) feet, horizontal distance, of tributary streams, streams, and wetlands.

Comment [DDS236]: DEP upgrades

Comment [DDS237]: State Statute revisions since this was written.

Comment [DDS238]: DEP requirement

**B- NOTE:** Operations in existence on the effective date of this Ordinance and not in conformance with this provision may be maintained.

**PORTER LAND USE ORDINANCE**

C. Agricultural practices shall be conducted to minimize soil erosion, sedimentation, contamination, and nutrient enrichments of ground and/or surface waters. In the shoreland zone, the tilling of soil greater than 40,000 square feet in surface area may be done only in accordance with a Conservation Plan which shall be filed with the Planning Board. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a Conservation Plan may be available through the local **Soil and Water Conservation District** office. [Website: https://oxfordcountyswcd.org/](https://oxfordcountyswcd.org/)

Comment [DDS239]: Information accessibility

D. No new livestock grazing areas may be established within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond; within seventy-five (75) feet, horizontal distance of other water bodies; or within twenty-five (25) feet, horizontal distance of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities, and which is not in conformance with the above setback provisions, may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board.

Comment [DDS240]: DEP upgrades

E. All feed and grain is stored in rodent proof containers.

~~C.~~ F. All paddocks, pastures, barnyards, or other enclosures are adequately fenced to contain livestock, animals, or fowl.

~~D.~~ G. It is the responsibility of the parcel owner to assure that the animals remain within their property.

Comment [JT241]: Helpful Chart for raising local farm animals.

**Suggested Space and Housing Guidelines  
for Fully Mature Farm Animals**

Animal	Horse	Beef Cow	Dairy Cow	Dairy Goat	Pig	Sheep	Hen	Broiler	Turkey
<b>Unit</b>	1 horse	1 cow	1 cow	1 goat	1 pig	1 sheep	1 hen	1 broiler	1 turkey
<b>Enclosed Housing Area/Animal</b>	- Tie stalls 45 sq. ft.; 5' x 9' - Box stall 12' x 8' or 10' by 10'	75-100 sq. ft.	75-100 sq. ft.	20-25 sq. ft.	48 sq. ft. with exer- cise yard; 100 sq. ft. without exercise yard	20-25 sq. ft.	3-4 sq. ft.	3-4 sq. ft.	6 sq. ft.
<b>Exercise Yard Area/Animal</b>	200 sq. ft.	100-125 sq. ft.	100-125 sq. ft.	50 sq. ft.	200 sq. ft.	50 sq. ft.	10 sq. ft.	-----	20 sq. ft.
<b>Pasture Area/Animal</b>	1-2 acres	1-2 acres	1-2 acres	0.2-0.3 acres	12-14 sows/acre/ rotational pasture	0.2-0.3 acres	-----	-----	100 sq. ft.
<b>Type of Housing and Boundary Setback</b>	Enclosed ventilated barn or open 3-sided barn. Setback 50 ft.	Open front 3-sided barn. Setback 50 ft.	Open front 3-sided barn, free-stall or enclosed stanchion barn. Setback 50 ft.	Enclosed barn with removable side panels or windows. Setback 50 ft.	Enclosed barn, huts, shed, hutches or lean-to. Setback 50 ft.	Open front 3-sided shed. Setback 50 ft.	Enclosed barn. Setback 50 ft.	Enclosed barn. Setback 50 ft.	Enclosed barn. Setback 50 ft.
<b>Fencing</b>	-Electric -Wooden rail -Woven wire	-Barbed wire -Electric -Woven wire	-Barbed wire -Electric -Woven wire	-Electric -Woven wire	-Electric -Plank rail	-Electric -Woven wire	-Chicken wire	-----	-Chicken wire
<b>Family Needs</b>	1 horse per family member	1/2 - 1 beef animal/year; raise 2 animals/yr to provide continuous supply	1-2 cows	2-3 goats	2 pigs per yr.	6 sheep	6 hens	24 broilers	12 turkeys

*Note to municipal planners: The minimum space and housing guidelines in the chart apply to both commercial farms and backyard operations. However, you should not apply the numbers of animals suggested in the "Family Needs" category to commercial farms when drafting ordinances regulating agriculture in your community.*

~~E.~~

**5.45.3 Animal Husbandry.**

**PORTER LAND USE ORDINANCE**

- A. ~~Without Planning Board approval, as allowed in Subsection C, below, animal husbandry may only be conducted on a lot of at least 2 acres and all pens, stables, barns, or other shelters for animals shall be set back at least 100 feet from any lot line.~~
- B. ~~Without Planning Board approval, as allowed in Subsection C, below, no manure may be stored within 300 feet of the normal high water mark of any water body, watercourse, wetland, or well.~~
- C. ~~If the property on which the animals are kept is less than 2 acres and/or the applicant cannot meet the setbacks in Subsections A and B, a permit for keeping animals may be granted by the Planning Board, if the following standards are met:~~
  - 1. ~~All pens, stables, barns, or other shelters for animals are set back at least 100 feet from the nearest dwelling other than the applicant's.~~
  - 2. ~~All manure is stored in a covered structure and at least 100 feet from the nearest dwelling (other than the applicant's) and at least 100 feet from the nearest well, and at least 300 feet from the normal high water mark of any water body, watercourse, or wetland.~~
  - 3. ~~All structures are set back the required number of feet as defined in Article III, 3.2.~~
  - 4. ~~Manure storage structures are constructed according to plans approved by the Oxford County Soil Conservation District.~~
  - 5. ~~All feed and grain is stored in rodent proof containers.~~
  - 6. ~~All paddocks, pastures, barnyards, or other enclosures are adequately fenced to contain livestock, animals, or fowl.~~
  - 7. ~~The Planning Board shall set a limit on the number and species of animals permitted. In determining these limits the Board shall consider the size and layout of the lot; the size of adjacent lots; the presences of vegetative screening and buffer strips; and the potential for noise, odor, and vermin problems.~~
    - 1. All pens, stables, barns, or other shelters for animals, including animals shall be set back at least two hundred (200) feet from any lot line.
    - 2. All manure is stored in a covered structure and must stockpiled greater than two hundred fifty (250) feet, horizontal distance, of the normal high water mark of a great pond or river, or any other water bodies, tributary streams, wetlands, or well.
    - 3. No new livestock grazing areas may be established within two hundred fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, of other water bodies, or within tributary streams and wetlands.

**NOTE:** Ongoing existing livestock grazing which is not in conformance with the above setbacks, may continue, provided that such grazing is conducted in accordance with a submitted *Conservation Plan*.
    - 4. [Reference Article IV Section 4.2 Landscaping Buffer and Screening for 'Specific Uses', excluding driveway entrance(s)].
    - 5. Manure storage structures are constructed according to plans approved by the Oxford County Soil Conservation District.
    - 6. All feed and grain is stored in rodent proof containers.
    - 7. All paddocks, pastures, barnyards, or other enclosures are adequately fenced to contain livestock, animals, or fowl.

**Comment [PB242]:** Reworked language below to focus on over 30 AEU and > 300 AFO/CAFO.

**Comment [DDS243]:** Buffering and Screening consolidated into 4.2 - N

## PORTER LAND USE ORDINANCE

8. A Conservation Plan shall be submitted to the Planning Board and the Oxford County Soil and Conservation District. Nonconformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

9. The applicant for a Land Use Permit under this specific use shall submit a fully scaled site plan prepared by a surveyor or engineer licensed in the State of Maine. For structures proposed to be erected, structures to be moved or removed, structural modifications to the interior of existing structures, and exterior additions to existing structures, the plan must reflect:

a.) Existing and proposed contours, wetlands regardless of size, water bodies, proposed buildings, wells, parking, roadways, and lot lines;

b.) The shape, size, and location of the lot, to scale, on which the structure is, or is proposed to be, located.

c.) The shape, size, and location on the lot of the structure(s), removal(s), or addition(s), to scale, located and noted as to distances and dimensions from lot lines, roadways, and other existing elements (structures, wells, waterbodies, etc.)

d.) Interior demising to indicate dimensions of pens and cages (including heights), and notations of proposed square footage per animal with respect to housing, exercise yard, and pasture.

e.) A standard boundary survey of the property on which the use is proposed, prepared by a surveyor licensed in the State of Maine.

10. No facility may be located on a sand and gravel aquifer, or on an aquifer recharge area, as mapped by the Maine Geological Survey, or a geologist licensed in the State of Maine.

11. Studies by such qualified engineers, environmental consultants, or other suitable professionals as shall be satisfactory to the Planning Board, demonstrating compliance with the following sections of the Porter Maine Land Use Ordinance: Access Control and Traffic Impacts, Dust, Fumes, Vapors, and Gases, Noise, Off-Street Parking and Loading Requirements, Roads and Driveways, Sanitary Standards, Soils and Erosion Control, Storm Water Run-Off, and Water Quality Protection. The applicant shall be solely responsible for the cost of such professional studies. The Planning Board shall have discretion to order peer review of any such professional studies, at the applicant's expense.

12. It is the responsibility of the parcel owner to assure that the animals remain within their property.

### 5.55.4 Automobile Graveyards and Junkyards.

A. Prior to issuance of the municipal land use permit, the applicant shall present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from the DEP stating that a permit is not required.

A. The applicant for a Land Use Permit under this specific use shall submit a fully scaled site plan prepared by a surveyor or engineer licensed in the State of Maine. For structures proposed to be erected, structures to be moved or removed, structural modifications to the interior of existing structures, and exterior additions to existing structures, the plan must reflect:

1.) Existing and proposed contours, wetlands regardless of size, water bodies, proposed buildings, wells, parking, roadways, and lot lines;

## PORTER LAND USE ORDINANCE

2.) The shape, size, and location of the lot, to scale, on which the structure is, or is proposed to be, located.

3.) The shape, size, and location on the lot of the structure(s), removal(s), or addition(s), to scale, located and noted as to distances and dimensions from lot lines, roadways, and other existing elements (structures, wells, waterbodies, etc.)

4.) Interior demising to indicate dimensions of spaces, and notations of intended square footage per room and any appurtenances.

5.) A standard boundary survey of the property on which the use is proposed, prepared by a surveyor licensed in the State of Maine.

**Comment [PB245]:** More thorough plan expectations.

### B. Site Considerations:

1. No motor vehicles or materials may be located on a sand and gravel aquifer, or on an aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist.
2. No motor vehicles or material may be located within the 100-year flood plain, as mapped by the Federal Insurance Administration, the Army Corps of Engineers, or the U.S. Department of Agriculture.
3. A visual buffer capable of completely screening from view all portions of the automobile graveyard or junkyard shall be established and maintained along all property lines (Reference Article IV Section 4.2 Landscaping Buffer and Screening for 'Specific Uses', excluding driveway entrance(s)).
4. No motor vehicles or material may be stored within five hundred (500) feet of any school, or any dwelling other than that of the owner or operator of the Automobile Graveyard or Junkyard.
5. No motor vehicles or material may be stored within 300-five hundred (500) feet of any water body.

**Comment [DDS246]:** Buffering and Screening consolidated into 4.2 - N

**Comment [DDS247]:** Coordinated with other serious concerns in Porter per the LUO and Comprehensive Plan.

### A. Operational Considerations;

Upon receiving a motor vehicle, the battery shall be removed and the engine lubricant, transmission fluid, brake fluid, and engine coolant shall be drained into watertight, covered containers. No discharge of any fluids from any motor vehicle may be permitted into or onto the ground.

## 5.65.5 Bed & Breakfast, Boarding, or Renting Rooms.

**Comment [JT248]:** Consolidated - requirements identical throughout existing ordinance.

~~A.~~ The application for approval shall include a scale drawing of the lot showing the location of existing buildings, existing and proposed parking, and existing and proposed sewage disposal systems.

~~B.~~ There shall be at least 1 parking space for each rental room in addition to the spaces required for the dwelling unit.

**Comment [DDS249]:** Redundant to existing LUO ordinance regulations for this use.

~~A.~~ Existing residential or new structure creations intended for more than three (3) rooms of this accessory use to be rented must comply with Article V Hotels/Motels/Inns or Multi-Family Dwelling requirements, as applicable.

**Comment [DDS250]:** Coordinates the LUO and establishes a threshold for additional regulatory requirements. Private homes shall not be deemed or considered lodging places and subject to a license where not more than 3 rooms are let. (Maine DHHS - Rules Relating to Lodging Establishments)

~~C.~~ There shall be 1 bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.

~~C.~~ Each rental room shall have at least 10 feet by 12 feet horizontal dimensions, 120 square feet in floor area.

**Comment [DDS251]:** Clarified 10x12 and accounts for non-typical floor footprints in older homes, and coordinates with Comprehensive Plan.

~~E.~~ Each rental room shall be equipped with an approved smoke detector.

**Comment [DDS252]:** Redundant - a condition of Fire Marshall approval

~~F.~~ The building shall meet applicable State and local fire regulations, and be inspected by appropriate fire inspection personnel.

~~E.~~ One bedroom is occupied by the owner.

**Comment [PB253]:** Most houses are 3-4 four bedrooms, the requirement of an owner dedicated room complies with State Law licensing requirements.

~~F.~~ There may be no new external construction to increase the size of the structure to accommodate the accessory use, except as may be required by safety codes; however, there may be construction within the home to accommodate the accessory use.

**Comment [DDS254]:** Coordination of LUO and definitions.

## PORTER LAND USE ORDINANCE

- G. Violations of any section of the Town of Porter Land Use Ordinance initiated through an Airbnb or VRBO enterprise is the responsibility of the property owner.
- H. Airbnb or VRBO enterprises exceeding the maximum occupancy of a dwelling is not permitted, unless a Land Use Application is submitted and approved through the Porter Planning Board.
- I. Airbnb or VRBO enterprises that are advertised and promoted as mass-gatherings opportunities and that do not restrict the use of alcohol are required to apply for a **Special Amusement Permit** from the Town of Porter.

**Comment [PB255]:** A simple inclusion to attempt to address new era concerns that have negatively impacted other towns and cities across the nation.

### 5.7 Boarding Houses.

- A. The application for approval shall include a scale drawing of the lot showing the location of existing buildings, existing and proposed parking, and existing and proposed sewage disposal systems.
- B. There shall be at least 1 parking space for each rental room in addition to the spaces required for the dwelling unit.
- C. There shall be 1 bathroom provided per 4 rental rooms, in addition to the bathroom for the dwelling unit.
- D. Each rental room shall have at least 10 feet by 12 feet horizontal dimensions.
- E. Each rental room shall be equipped with an approved smoke detector.
- F. The minimum lot size for Boardinghouses is as follows:

- 1. Village District: 30,000 square feet
- 2. Rural District: 88,000 square feet

**Comment [DDS256]:** Redundant - consolidated with other lodging and requirements are duplicated in relevant sections of the ordinance.

### 5.85.6 Campgrounds.

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

#### A. Density

Campgrounds shall contain at least five thousand (5,000) square feet of suitable land, not including road and driveways, per recreational vehicle site, tent site, and shelter area site. Land supporting wetland vegetation, and land below the normal high-water line of a water body, or septic systems may not be included in calculating land area per site.

1. The net residential acreage is calculated by taking the total area of the lot and subtracting, in order, the following:

- (a) 15% of the area of the lot to account for roads and parking.
- (b) Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot
- (c) Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
- (d) Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
  - [1] slopes greater than 33%.
  - [2] organic or wetland soils.
  - [3] 50% of the poorly drained soils unless the applicant can demonstrate specific engineering techniques to overcome the limitations
- (e) Portions of the lot subject to rights of way.
- (f) Portions of the lot located in the resource protection zone.
- (g) Portions of the lot covered by surface waters.
- (h) Portions of the lot utilized for storm water or waste management facilities.

2. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage is divided by the minimum lot size required in the District. A high-intensity soil



PORTER LAND USE ORDINANCE

survey map, certified by a Registered Soil Scientist licensed in the State of Maine, shall be submitted. No building may be constructed on soil classified as being very poorly drained. 3. The overall density of any park served by any subsurface wastewater disposal system may not exceed one dwelling unit per 12,000 square feet of total park area.

B. The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of any great pond or a river; seventy-five (75) feet, horizontal distance, from the normal high-water line of other water body, tributary streams, or the upland edge of a wetland; and shall be set back at least one-hundred (100) feet from the exterior lot lines of the campground. Every water front site shall have at least twenty (20) feet of frontage on the water.

C. At least two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.

D. Subdivision Regulation Design Guidelines (Article 12 Section 12.2 -Traffic conditions) are to be applied for all road construction and parking related to this use.

~~E.~~ Each recreational vehicle, tent, or shelter site shall be provided with a picnic table, trash receptacle, and fireplace. A trash receptacle can either be located at each site, or a shared collection point provided for the campground.

~~E.F.~~ All campgrounds shall be screened from adjacent land areas by continuous landscaped area not less than 25 feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than 6 feet in height. See Article IV 4.2 - Landscape Buffers & Screening for specific USE requirements.

G. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the Trip Generation Manual, published by the Institute of Transportation Engineers. If the campground is projected to generate more than 400 vehicle trip ends per day, the applicant shall also include a traffic impact analysis by a registered professional engineer licensed in the State of Maine with experience in transportation engineering, and also submit a stormwater management plan prepared by a professional engineer licensed in the State of Maine indicating compliance with the standards of Section 4.2.R.

H. Minimum Sight Distance.

(a) A minimum sight distance of 10 feet for every mile per hour of legal speed limit on the existing road shall be provided. Sight distance is measured from the driver's seat of a vehicle that is ten (10) feet behind the curb or edge of shoulder line with the height of the eye 3.5feet above the pavement and the height of the object 4.5feet.

I. Violations of any section of the Town of Porter Land Use Ordinance initiated through an Airbnb or VRBO enterprise is the responsibility of the property owner.

J. Airbnb or VRBO enterprises exceeding the maximum occupancy of a dwelling is not permitted, unless a Land Use Application is submitted and approved through the Porter Planning Board.

K. Airbnb or VRBO enterprises that are advertised and promoted as mass-gatherings opportunities and that do not restrict the use of alcohol are required to apply for a Special Amusement Permit from the Town of Porter.



Comment [PB258]: Coordination of existing roadway standards. The town has been put at risk in the past with substandard subdivision roadways they've accepted.

Comment [JT259]: Provides more applicant flexibility in providing a needed service and minimizes disturbance and infrastructure by allowing single-point collection.

Comment [DDS260]: Relocated to 4.2N (screening and buffering)

Comment [J261]: This standard has been updated ten times since inception.

Comment [PB262]: Specific and stringent sight distance added for risk due to size and summer traffic.

PORTER LAND USE ORDINANCE

~~5.9~~ **5.8 Cluster Developments. – Comply with State Subdivision Regulations**

~~A. Purpose~~

~~The purpose of these provisions is to encourage the preservation of the rural character of Porter by preserving undeveloped land, including farm land and forest land, and other undeveloped areas.~~

~~B. Application Procedure:~~

~~In order for the applicant and the Planning Board to determine that the proposed cluster development will not allow more dwelling units than a conventional development the applicant shall either:~~

~~1. Submit two (2) plans for the proposed development, one layout as a conventional development and the second as a cluster development. Each lot in the conventional development shall meet the minimum lot size and lot width requirements of this Ordinance, have an area suitable for subsurface wastewater disposal according to the State of Maine Subsurface Wastewater Disposal Rules, and shall exclude land which is undevelopable according to this Ordinance or the Subdivision Regulations. The number of lots in the cluster development may in no case exceed the number of lots in the standard development, or~~

~~2. Calculate the allowable number of lots by dividing the net residential acreage of the parcel of land by the minimum lot size of the district in which the development is located. The net residential acreage is calculated by taking the total area of the lot and subtracting, in order, the following:~~

- ~~(a) 15% of the area of the parcel to account for roads and parking.~~
- ~~(b) Portions of the lot which, because of existing land uses or lack of access, are isolated and undevelopable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.~~
- ~~(c) Portions of the lot shown to be in the floodway as designated in the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency.~~
- ~~(d) Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage, or subsoil conditions such as, but not limited to:~~

- ~~[1] slopes greater than 20%.~~
- ~~[2] organic or wetland soils.~~
- ~~[3] wetland soils.~~
- ~~[4] 50% of the poorly drained soils.~~

- ~~(e) Portions of the parcel subject to a right of way.~~
- ~~(f) Portions of the parcel located in the Resource Protection District.~~
- ~~(g) Portions of the parcel covered by surface waters.~~
- ~~(h) Portions of the parcel utilized for storm water management facilities.~~

~~In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage is divided by the minimum lot size required in the District. A high intensity soil survey map, certified by a Registered Soil Scientist licensed in the State of Maine, shall be submitted. No building may be constructed on soil classified as being very poorly drained.~~

~~C. Basic Requirements for Cluster Developments:~~

~~Cluster developments shall meet all requirements for a subdivision, the street acceptance requirements, and all other applicable town ordinances, including the applicable Performance Standards of this Ordinance.~~

**Comment [DDS264]:** Move this back to under full subdivision control. As written, there is no legal process to apply both ordinances administration procedures to the same use. Moving back to subdivision allows townspeople more transparency and notification, and a more thorough and consistent review.

**Comment [DDS265]:** Redundant to LUO regulations, and without measureable criteria (subjective - Due Process and IDLA concerns)

**Comment [J266]:** Consolidated

**Comment [DDS267]:** Consolidated

**Comment [PB268]:** Recommend adding this to Cluster Developments when moved back to Subdivision Regulations where it should be located to be able to enforce.

PORTER LAND USE ORDINANCE

- 1. ~~A lifecycle plan that includes removing infrastructure (roads, concrete pads, shared structures, re-merging lots, etc.) when the development has outlived its purpose or is discontinued for five (5) years is to be provided to the Planning Board during application review.~~
- 2. ~~Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered. The developer shall illustrate the placement of buildings and the treatment of spaces, paths, roads, utility service, and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of this Ordinance.~~
- 3. ~~A high intensity soil survey shall be submitted. No building may be constructed on soil classified as being very poorly drained.~~
- 4. ~~Except for in-ground homes, no building may be located or constructed on slopes steeper than 25%.~~
- 5. ~~No building may be located or constructed within 100 feet of any water body or wetland.~~
- 6. ~~No lot may be smaller in area than twenty thousand (20,000) square feet.~~
- 7. ~~The total area of common land within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the District.~~
- 8. ~~The set back standards of the district in which the buildings are located apply.~~
- 9. ~~No individual lot or dwelling unit may have direct vehicular access onto a public road existing at the time of development.~~
- 10. ~~Shore frontage may not be reduced below the minimum normally required in the Shoreland District.~~
- 11. ~~Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as access to it, shall be a part of the common land.~~
- 12. ~~Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, solar energy, and natural drainage areas, in accordance with an overall plan for site development.~~
- 13. ~~The applicant shall demonstrate the availability of water adequate for domestic purposes as well as for fire safety. The Fire Marshall and/or State Regulations may require the cThe Planning Board may require the construction of storage ponds and dry hydrants. The location of all wells shall be shown on the plan.~~
- 14. ~~The location of subsurface wastewater disposal systems and an equivalent reserve area for replacement systems shall be shown on the plan. The reserve areas shall be restricted so as not to be built upon. The report of a licensed Site Evaluator shall accompany the plan. If the subsurface disposal system is an engineered system, approval from the Department of Human Services, Division of Health Engineering shall be obtained prior to Planning Board approval.~~
- 15. ~~Utilities shall be installed underground wherever possible. Transformer boxes, pumping stations, and meters shall be located so as not to be unsightly or hazardous to the public.~~

D. Dedication and Maintenance of Undeveloped Area and any Common Facilities:

- 1. ~~There may be no further subdivision of this land, which may be used only for agriculture, forestry, conservation, or non-commercial recreation. However, easements for public utilities or structures accessory to non-commercial recreation, agriculture, or conservation may be approved by the Planning Board.~~
- 2. ~~The undeveloped area shall be shown on the development plan and with appropriate notation on the face thereof to indicate that:~~
  - (a) ~~the undeveloped area may not be used for future building lots; and~~

Comment [J269]: A necessary requirement in this era, based on speculation and vacating large developments after opportunities are exhausted (towers, malls, etc...)

Comment [DDS270]: Redundant to Article III.

Comment [DDS271]: Redundant to Article I, II, and III.

Comment [DDS272]: Deemed subjective (Due Process and IDLA issues) by Common Law - There is a consolidated section in Article IV as a general requirement. Prescriptive.

Comment [DDS273]: This is under the Plumbing Inspector and Fire Marshall purview as well as plumbing and Fire Code.

Comment [DDS274]: The use has a robust buffer and screening requirement - This is unreasonable and subjective to dictate meters, pumps, and power infrastructure, and concerns can be discussed and reviewed on the plans when submitted.

Comment [DDS275]: Clarification and coordination of the LUO language.

**PORTER LAND USE ORDINANCE**

(b) the final disposition of the undeveloped area, which may be:

~~[1] Dedicated to the town for acceptance;~~

~~[2] Deeded to a land trust;~~

~~[3] Retained by the applicant, or~~

~~[4] Reserved for ownership by a homeowners' association made up of the owners of the lots in the cluster development.~~

**Comment [DDS276]:** Taking parcel acreage off of the tax rolls is not competent or reasonable.

3. ~~If any or all of the undeveloped area is to be reserved for use by the residents as in [43] above,~~

~~(a) A homeowners' association shall be formed and the by laws of the homeowners' association shall specify maintenance responsibilities. The by laws shall be submitted to the Planning Board for their approval prior to approval of the development plan.~~

~~(b) Covenants for mandatory membership in the association, setting forth the owners' rights and interest and privileges in the association and the common land, shall be reviewed by the Planning Board and included in the deed for each lot.~~

~~(c) This homeowners' association has the responsibility of maintaining the undeveloped area and any common facilities until accepted by the town.~~

~~(d) The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, other common and recreational facilities and town assessments.~~

~~The developer shall maintain control of the open space and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination is made by the Planning Board upon request of the homeowners' association or the developer.~~

**Comment [DDS277]:** Error - The town should not take on any liability of this use.

4. ~~If the undeveloped area is retained by the applicant, as in (2)(b)[32] above:~~

~~(a) The land may only be used for active agriculture or active forestry. The conditions of this use shall be approved by the Planning Board and indicated on the development plan.~~

~~(b) The development rights of the undeveloped area shall be deeded to either the town or other entity approved by the Planning Board and may not be deeded back to the owner of the undeveloped land.~~

~~(c) An area suitable for the noncommercial recreational use of the owners of the lots in the cluster development shall be reserved. This area shall be either dedicated to the town or reserved for a homeowners' association as in (3) above. This area shall be equal in size to 2,500 square feet per lot in the cluster development.~~

**Comment [DDS278]:** Coordination of this regulation

5. ~~If the undeveloped area is deeded to a land trust as in (2) (b) [32] above, the Planning Board shall approve the land trust and the conditions of the deed.~~

6. ~~If the undeveloped area is dedicated to the town as in (2) (b) [1] above, the Planning Board shall approve the language of the dedication and the use allowed in the undeveloped area.~~

**Comment [DDS279]:** Town should be hesitant to take on this liability and loss of tax rolls.

**E. ~~Buffering.~~**

~~The area of the lots in the cluster development shall be designed as a continuous landscaped buffer area not less than 50 feet in width which may contain no structures or streets. The first 25 feet of the buffer strip, as measured from the exterior boundaries of the development, shall contain evergreen shrubs, trees, fences, walls, landscaped earth berms, or any combination which forms an effective visual barrier to be located on all exterior lot lines of the development, except that driveways shall be kept open to provide for vehicles entering and leaving the development.~~

**Comment [DDS280]:** Relocated into 4.2-N (Screening and Buffering Chart) - Redundant

PORTER LAND USE ORDINANCE

5.10 5.9 Garage and Yard Sales.

B. Garage and Yard Sales are permitted in all districts. Such sales may only be held by the property owner on whose property the sale is located.

Comment [PB281]: This is unenforceable and unrealistic.

A.C. For public safety and access, no materials may be placed within the Right-of-Way of the road

Comment [PB282]: A consideration for violations of the front setback and public services needs (shoulder, emergency services, road repair, plowing, brush-cutting, ditching, etc.)

B. Garage and Yard Sales are permitted for no more than 12 days in any calendar year. Sales conducted more frequently are classified as "Low Impact Commercial" or "High Impact Commercial" Land Uses. These uses require additional permits, shall be located in appropriate zoning districts, and shall meet appropriate performance standards.

C.D. If located along Route 25 or 160 the operator of a Garage and Yard Sale shall provide adequate off-street parking to the greatest extent possible so that parking does not take place along the roadway.

D. Signs for such sales shall meet the requirements for signs in this Ordinance.

B. After each event, items for sale are to be placed in an enclosed structure and concealed from public view. Reference Section 8.2 Junkyards and Article IV Refuse Disposal.

Comment [JT283]: DEP notice regarding conflict with the Comprehensive Plan, unreasonable, and unenforceable. Municipal officers have been aware of this for many years. Traffic control, noise, and junk left exposed are all enforceable under Article IV. If it is not a yard sale, then it is a home business, or farm and farm related ventures (homesteading-subsistence), or a minor rental in which are also unreasonable to regulate and is also unenforceable (based on budget and unintended consequences of bias) specifically if it does not violate any performance standards.

5.11 5.10 Ground Water and/or Spring Water Extraction and/or Storage.

A. Permit Required.

The removal of more than more than 2000 gallons to a maximum of 20000 gallons per day 4000 gallons per day of ground water or spring water as part of any collective residential, commercial, industrial, or land excavation operation, where allowed under this ordinance, requires approval by the Planning Board. The Planning Board shall grant approval if it finds that the proposal, with conditions, if any, will conform with the requirements of this section, all other requirements of this Ordinance, and all applicable codes and laws ordinances.

Comment [DDS284]: Recommended.

Comment [DDS285]: ordinance language is insufficient to be able to effectively and lawfully enforce.

Exception: Agricultural uses

Comment [DDS286]: A reasonable and competent interim step to limit town liability (taxpayer inequity), while allowing the use. 1,000-2,000 GPD is used by some residential owners, and is not enforced, which makes 2,000 GPD reasonable threshold for this section, and enforceable (as State permitting/engineering is recorded). 80% of uses in Maine operate under 2,000 GPD (excluding agriculture)

B. Submission Requirements.

The application together with site plan shall include the following information:

Comment [DDS287]: 2000 introduces engineered wastewater treatment systems, under 2,000 are local residents and small operators. 20,000 GPD is a competent and reasonable cap for mid-range enterprises (roughly 99% of operators in this state operate under 10,000 GPD), interconnects ecological capacity to demand, and it allows for growth which will test adequately in the courts. This coordinates with current State Statutes and is beneficial as opposed to no upper limit and severe taxpayer inequity and unpreparedness.

1. Statement of the quantity of ground water to be extracted, expressed as the annual total, the maximum monthly rate by month, and the maximum daily rate;
2. A letter from the Maine Department of Human Services approving the facility as proposed where the Department has jurisdiction over the proposal;
3. Where appropriate, letters from the Department of Environmental Protection when the Site Location Law is applicable or a discharge permit is required;
4. Applicants shall present a written report of a hydrogeologic investigation conducted by a certified professional geologist or registered professional engineer, except for spring water extraction facilities which meet the following conditions: the spring enhancement may not increase the combined spring's catchment capacity by removing more than four (4) cubic yards of earth and not increase the spring's depth by more than four (4) feet, where the discharge drain is no lower than the existing spring water level, where gravity alone (without the aid of a siphon) is used to withdraw the spring water to other facilities on site, and where other improvements do not threaten ground water levels. This report shall include the following information:

Comment [DDS288]: Redundant and ADDED omitted "laws".

- (a) A map of the aquifer tributary to the spring(s), well(s) or excavation(s) from which water is to be extracted, in sufficient detail to support a calculation of sustained yield during a drought with

**PORTER LAND USE ORDINANCE**

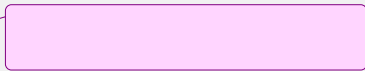
a probability of 1 in 10 years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.

- (b) The results of the investigation shall establish the aquifer characteristics, the rates of draw-down and rebound, the sustainable yearly, monthly (by month), and daily extraction rates, and the cone of depression which may develop about the proposed facility. Other impacts on the water table in the tributary aquifer and such other private or public wells within one thousand (1,000) feet of the proposed extraction facilities shall also be assessed.

**C. Performance Standards**

The following standards shall be met and the applicant shall clearly demonstrate that they will be met.

1. The quantity of water to be taken from ground water sources may not lower the ground water table at the property lines by more than two feet, cause salt water intrusion, cause undesirable changes in ground water flow patterns, or cause unacceptable ground subsidence, based on the conditions of a drought with a probability of occurrence of once in ten (10) years. Test wells shall be installed at the property line and monitored monthly by the applicant to ensure compliance with these standards and submitted monthly to the Code Enforcement Officer or a designee.
2. The proposed facility may not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.
3. Safe and healthful conditions shall be maintained at all times within and about the proposed use.
4. The proposed use may not cause sedimentation or erosion.
- 5-3. The proposed facility is not within the defined aquifer recharge area of a public water supply, unless notice is given to the operator thereof and the Board Board of all Towns sharing the water supply, and the Boards have considered any information supplied by the operator and finds that no adverse affect on a public water supply will result.
- 6-4. The operator shall make operating records of the quantity of water extracted, stored and removed from the site and submit them monthly to the Code Enforcement Officer or a designee. To ensure compliance with these performance standards, the Planning Board shall require, as condition of approval, for the operator to reimburse the Town for the cost of the Town’s consulting engineer to review the results of these reports annually, or whenever a written complaint is submitted to the Code Enforcement Officer. Nothing in this procedure, and no decision by the Planning Board is deemed to create groundwater rights other than those rights which the applicant may have under Maine law.
- 7-5. As a condition of approval, the applicant shall be required to make offsite road improvements to private or public ways or streets, to accommodate any truck traffic generated by the extraction operation. Such improvements may include, but not be limited to, traffic control, paving, grading, rolling, ditching, and filling, and the provision of turnouts.



**Comment [DDS290]:** Porter, Hiram, and Parsonsfield share a public water supply located in the municipality of Parsonsfield. This community deserves equal respect and notification of a new and significant demand placed on their water resource system. This is a reasonable and competent requirement.

**Comment [PB291]:** Prior regulations do not encapsulate the negative externalities of robust resource extraction.

**5.12 5.24 Special and/or Hazardous Waste Facilities.**

Hazardous waste facilities shall comply with the following site and performance standards:

A. The applicant for a Land Use Permit under this specific use shall submit a fully scaled site plan prepared by a surveyor or engineer licensed in the State of Maine. For structures proposed to be erected, structures to be moved or removed, structural modifications to the interior of existing structures, and exterior additions to existing structures, the plan must reflect:

- 1.) Existing and proposed contours, wetlands regardless of size, water bodies, proposed buildings, wells, parking, roadways, and lot lines;

## PORTER LAND USE ORDINANCE

- 2.) The shape, size, and location of the lot, to scale, on which the structure is, or is proposed to be, located.
- 3.) The shape, size, and location on the lot of the structure(s), removal(s), or addition(s), to scale, located and noted as to distances and dimensions from lot lines, roadways, and other existing elements (structures, wells, waterbodies, etc.)
- 4.) Interior demising to indicate dimensions of spaces, and notations of intended square footage per room and any appurtenances.
- 5.) A standard boundary survey of the property on which the use is proposed, prepared by a surveyor licensed in the State of Maine.

**Comment [PB292]:** A more thorough expectation of plan depictions for review.

### A. B. Site Standards.

In addition to being in compliance with the most current Regulations of the Department of Environmental Protection that address the disposal of waste, the applicant shall conduct a hydrogeologic investigation of the site and prepare detailed construction and site development plans, and operating procedures. The site shall include the following characteristics:

1. It shall consist of at least five hundred (500) acres.
2. The disposal areas within the overall site shall be at least five thousand (5,000) feet from the nearest inhabited residence or potable water supply existing at the time at which the application is filed.
3. There shall be a buffer zone of at least one thousand (1,000) feet between disposal areas and all public roads.
4. Continuous Buffer and Visual Screening are required, excluding driveway entrance(s), see Article IV 4.2-N Landscape Buffers and Screening.
5. No facility, motor vehicles, or materials may be located on a sand and gravel aquifer, or on an aquifer recharge area, as mapped by the Maine Geological Survey, or a geologist licensed in the state of Maine.
6. Subdivision Regulation Design Guidelines (Article 12 Section 12.2 -Traffic conditions) are to be applied to all road construction and parking related to this use.

**Comment [DDS293]:** Consolidation to IV 4.2-N and coordination of LUO

**Comment [DDS294]:** Reasonable and competent regulation for inclusion in this section.

**Comment [PB295]:** It is competent and reasonable to not put a special or hazardous waste over the top of a communities aquifers or aquifer recharge areas.

### B. C. Performance Standards.

If the Town does not operate the site, the site may not be operated unless the Planning Board is furnished by the owner and/or operator with:

1. A performance bond, which shall be in effect at all times the facility is in operation, and for a period of twenty (20) years after closure or termination or default of the facility or site, conditioned on faithful performance of the requirements of this Ordinance. All such bonds shall be written by an insurance company licensed to transact business in the State of Maine, and shall be for a sum of at least \$500,000.00-\$1,000,000.00.
2. A certificate evidencing proof of liability insurance covering all aspects of the solid waste disposal facility operations under this Ordinance. Such policy of liability insurance shall insure against personal injury in an amount at least \$+2,000,000.00 per person or \$24,000,000.00 per occurrence, and insure against property damage in an amount at least \$24,000,000.00 per occurrence. The deduction written into the insurance policy must not exceed 5% of the incident limit of liability of the policy. Such insurance shall be in effect at all times the facility is in operation and for a period of 20-forty (40) years after closure of the facility or site.
3. The applicant must provide a surety bond to the Town of Porter in the amount sufficient to cover the construction or expansion costs of the hazardous and/or special waste facility as proposed to the Planning Board.

**Comment [DDS296]:** Updating insurance amounts from the time it was written and extending coverage period to the current era. The current coverage will not adequately cover the risk.

**PORTER LAND USE ORDINANCE**

4. The applicant must have obtained a surety bond in the amount of \$100,000.00 guaranteeing the operation of the site in accordance with these rules and regulations; or the applicant must post a sum equal or greater than \$100,000.00 with the Town of Porter to correct failures to comply with this Article.

5. The Town of Porter will be named specifically as a written obligee and insured under these submissions.

**Comment [DDS297]:** Additional risk management provisions to update to the current era.

**C. D. Transfer of Ownership.**

1. In the event that any person or corporation to whom a permit has been issued, and prior to transfer of ownership or operational responsibility for the facility to another, the new owner and/or operator is required to obtain a new permit in the manner required herein. A performance bond established under the provisions of this Ordinance for the facility may only be released by the vote of the legislative body.
2. In the event of a change of ownership, the performance bond established for a facility shall remain in effect until the new performance bond for the facility is in effect and presented to the Town.

**5.13 Home Occupations:**

**A. Purpose**

To allow the residents of Porter to engage in a Home Occupation, provided it does not adversely affect abutting or neighboring owners, thereby creating a nuisance or lowering of property values.

**B. Home Occupation**

A home occupation is any use engaged in for monetary gains and which conforms to the following standards:

1. Is carried on within a dwelling unit or structure accessory to a dwelling unit with only one such use per premises;
2. Is secondary to the use of the dwelling unit for residential purposes;
3. Does not employ more than one person who is unrelated, by blood or marriage, to the business owner, or who does not reside on the premises;
4. Screens and locates materials stored, so that there is no exterior evidence of the use, except one resident name sign and one home occupation sign. (see Section 4.2.O)
5. Is not likely to generate traffic from more than 10 vehicles during the course of any average day when the premises are open for business;
6. Has sufficient off-street parking available within 100 feet of the premises for customers' use without creating any traffic or safety hazards;
7. Does not utilize equipment or processes which create noise, vibration, glare, dust, fumes, odors, or electrical interference detectable to the normal senses or which interfere with normal radio or television reception off the premises;
8. Keeps all driveway entrances and exits free from visual distraction higher than 3 feet above street level for a distance of 25 feet, measured along the intersecting driveway and street lines, in order to provide visibility for vehicles entering and leaving the premises;
9. Does not adversely affect any natural resource or environmentally sensitive area, such as a wetland, aquifer, watercourse, water body, etc.

**Comment [DDS298]:** Uncertainties and error can impact the effect of this regulation unless Model used, Prediction of Future Demographics, Socio-economic data, Land Use Data, Trip Making Data, # of people per household, # of cars per household have been determined and validated. A more realistic approach of 50 trips is utilized by a number of towns (as single family households already exceed this home occupation traffic regulation - 10 to 11)

**Comment [JM299]:** Recommend ITE trip generation estimates in article IV (general) – 50 trips

**Comment [DDS300]:** Redundant to Article II, redundant to parking and Off-Street Parking (Article IV), redundant to existing regulations designed to prevent adverse affect or nuisance, the DEP stated parking and regulatory oversight ordinances are in conflict with the approved Comprehensive Plan of the Town and when including frontage mandates by the town (wider for more privacy), this exacerbates the negative effect on local economic health, there are no provisions for home businesses and cottage industries, a priority in the Comprehensive Plan (having 2 employees is considered Low Impact Commercial/Industry in the regulations). Private homes are not deemed or considered lodging places or subject to a license where not more than 3 rooms are let. (Maine DHHS - Rules Relating to Lodging Establishments).

**Comment [DDS301]:** Coordination with LUO definitions

**5.14 5.12 Hotels, Motels, or Inns.**



PORTER LAND USE ORDINANCE

~~A. No part of any building on a hotel lot may be closer than 60 feet to the front lot line, rear lot line or either side line of such lot. An undeveloped buffer strip not less than 20 feet wide, shall be maintained with grass, bushes, flowers, and/or trees all along each side lot line, the rear lot line, the front line, except for entrance and exit driveways. The buffer strip may not be used for parking.~~

~~B.A. A.~~ A. If cooking or eating facilities are provided in ~~hotel~~ these rental units, each rental unit is considered a dwelling unit and the ~~hotel-use~~ is required to meet all the standards for multifamily developments in this Ordinance including the residential density requirements of the appropriate district.

~~C.B. B.~~ B. Each ~~hotel~~ rental unit shall contain at least ~~two hundred (200)~~ square feet habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each hotel rental sleeping room shall be at least ~~12 by 15 feet horizontal dimensions~~ 120 square feet in floor area, exclusive of bathrooms. Each rental unit shall include private bathroom facilities.

~~D.C. C.~~ C. On each ~~hotel~~ lot, 1 ~~apartment dwelling unit may must~~ be provided for a resident owner, manager, or other responsible staff person.

~~D. D.~~ D. ~~Hotel-B~~ building construction plans shall be reviewed and approved by the State Fire Marshall's Office.

~~E. The applicant for a Land Use Permit under this specific use shall submit a fully scaled site plan prepared by a surveyor or engineer licensed in the State of Maine. For structures proposed to be erected, structures to be moved or removed, structural modifications to the interior of existing structures, and exterior additions to existing structures, the plan must reflect:~~

~~1.) Existing and proposed contours, wetlands regardless of size, water bodies, proposed buildings, wells, parking, roadways, and lot lines;~~

~~2.) The shape, size, and location of the lot, to scale, on which the structure is, or is proposed to be, located.~~

~~3.) The shape, size, and location on the lot of the structure(s), removal(s), or addition(s), to scale, located and noted as to distances and dimensions from lot lines, roadways, and other existing elements (structures, wells, waterbodies, etc.)~~

~~4.) Interior demising to indicate dimensions of spaces, and notations of intended square footage per room and any appurtenances.~~

~~5.) A standard boundary survey of the property on which the use is proposed, prepared by a surveyor licensed in the State of Maine.~~

~~F. Continuous Buffer and Visual Screening are required, excluding driveway entrance(s). See Article IV 4.2 - Landscape Buffers & Screening).~~

~~G. 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.~~

~~E. H.~~ H. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the *Trip Generation Manual*, published by the Institute of Transportation Engineers. If the Hotel/Motel/Inn is projected to generate more than 400 vehicle trip ends per day, the applicant shall also include a traffic impact analysis by a registered professional engineer with experience in transportation engineering, and Submit a stormwater management plan prepared by a professional engineer licensed in the State of Maine indicating compliance with the standards of Section 4.2.R.

Comment [DDS302]: Redundant to more specification LUO Regulation sections - Article III, and IV 4.2 N (Screening and Buffering)

Comment [PB303]: Simplifies definition to permit re-utilizing existing buildings.

Comment [PB304]: A more thorough requirement for plan depictions.

Comment [DDS305]: Consolidation to 4.2N and added reference.

Comment [J306]: This standard no has been updated ten times since introduced.

5.12 5.15 5.13 Individual Private Campsites.

PORTER LAND USE ORDINANCE

A. No more than one (1) campsite per lot existing on the effective date of this Ordinance, or per thirty-thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted upon issuance of a Land Use Permit from the Code Enforcement Officer.

B. When an individual private campsite is proposed on any lot in any district that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

Comment [DDS307]: DEP upgrades

EXCEPTIONS: Individual Private Campsites outside of shoreland zone are permitted for temporary visitors (less than two weeks), during dwelling construction, or for the purpose of emergency activities on the primary dwelling (in accordance with Code).

Comment [DDS308]: Integrates CEO Permits and challenges noted by the CEO, while acknowledging visitation

A.

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

~~C-D.~~ Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

~~D-E.~~ The clearing of vegetation for the siting of the recreational vehicle, tent, or similar shelter in a Resource Protection District may only be one thousand (1,000) square feet, with CEO approval.

Comment [J309]: DEP Regulations and this ordinance require this.

~~E-F.~~ A written sewage disposal plan describing the proposed method and location of sewage disposal is required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

G. When a recreational vehicle, tent or similar shelter is placed on-site for more than ~~120~~ one hundred thirty-five (135) days per year outside of shoreland zone (120 days within Shoreland zone), all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the *State of Maine Subsurface Wastewater Disposal Rules*.

Comment [J310]: 135 days encompasses peak vacation season in Maine is reasonable and competent.

H. Violations of any section of the Town of Porter Land Use Ordinance initiated through an Airbnb or VRBO enterprise is the responsibility of the property owner.

I. Airbnb or VRBO enterprises exceeding the maximum occupancy of a dwelling is not permitted, unless a Land Use Application is submitted and approved through the Porter Planning Board.

F. Airbnb or VRBO enterprises that are advertised and promoted as mass-gatherings opportunities and do not restrict the use of alcohol are required to apply for a Special Amusement Permit from the Town of Porter.

Comment [PB311]: A simple inclusion to attempt to addresses new era concerns that have negatively impacted other towns and cities across the nation.

**5.16 5.14 Breeding or Boarding Kennels and Veterinary Hospitals.**

A. Structures and pens for housing or containing the animals shall be located at least one hundred (100) feet from the nearest residence other than the owner's existing at the time of permit.

Comment [DDS312]: Consolidates definitions and connects with performance.

B. All pens, runs, or kennels, and other facilities for boarding or breeding of cats and dogs shall be designed, constructed and located on the site in a manner that minimizes the adverse effects upon the surrounding properties. Among the factors that shall be considered are the relationship of the use to the topography, natural and planted screening, the direction and intensity of the prevailing winds, the relationship and location of residences and public facilities on nearby properties, and other similar factors.

C. The owner or operator of a kennel shall maintain the premises in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material may be allowed to accumulate on the premises. The premises shall be maintained in a manner so as to not provide a breeding place for insects, vermin or rodents.

## PORTER LAND USE ORDINANCE

- D. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied at least once every five (5) days, or sooner, depending on the average number of animals4 days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be located in accordance with the setbacks required for outdoor runs.
- E. If outdoor runs are provided, they shall be completely fenced in, and shall be paved with cement, asphalt, or a similar material to provide for cleanliness and ease of maintenance.
- F. Any incineration device for burning excrement-soaked waste papers and/or animal organs or remains shall be located at least four hundred (400) feet from nearest residence other than the applicant's and shall have a chimney vent at least thirty-five (35) feet above the average ground elevation. The applicant shall also provide evidence that approval from the Maine Department of Environmental Protection has been obtained for the proposed incinerator, and that it meets state standards for particulate emissions, flue gas temperature, and duration of required flue temperatures.
- G. Continuous Buffer and Visual Screening are required, excluding driveway entrance(s). See Article IV 4.2 - Landscape Buffers & Screening.

**Comment [J313]:** 5 days is a normal workweek, and regulations need to consider volume of animals.

**Comment [J314]:** Not all situations are alike - it is not in the Town's best interest or the direction of the Comprehensive Plan to mandate more asphalt and concrete development.

**Comment [DDS315]:** Consolidation to 4.2N and added reference.

**NOTE: Per State Law, five (5) or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes is a "Kennel" and requires an annual State of Maine license, but not necessarily a Land Use Permit Application (See Article VIII Definitions of Kennels).**

### **5.17 5.18 Modular Housing and Mobile Homes.**

- A. Modular homes and mobile homes, whether single- or double-wide, not in a mobile home park shall meet all of the following requirements:
1. Dimensional and density requirements of the Zoning District for single family dwellings;
  2. A permanent foundation, frost wall, grade beam or floating slab with skirting of permanent material;
  3. A 3:12 pitched roof of suitable waterproof material;
  4. Exterior walls of traditional site-built appearance, including vinyl or metal siding manufactured to closely resemble clapboards, shingles, or shakes;
  5. No permanent additions other than units similar in construction to the original unit.
- B. These design requirements in (a), above, cannot be used to prevent the relocation of existing mobile homes from one lot to another in town.
- C. All used relocated mobile homes being moved from lot to lot within the town or moved into town from another locale shall:
1. be inspected and certified by the local Fire Chief, or the Chief's designee, that it meets the current Life Safety Code;
  2. be inspected and certified by a person holding a Masters License issued by the State of Maine Electricians' Examining Board that the electrical system is safe and meets the current National Electrical Code;
  3. be inspected and certified by a person holding a Masters License issued by the State of Maine Oil and Solid Fuel Examining Board that the heating and fuel system meets the requirements of NFPA-31-Installation of Oil Burning Equipment as adopted by the Board;
  4. be inspected by Local Plumbing Inspector after necessary plumbing permits have been obtained.

PORTER LAND USE ORDINANCE

~~D~~-Multi-unit modular housing shall meet the same standards and requirements as site-built homes.

**5.18 5.15 Mineral Exploration and Extraction.**

A. Mineral Exploration.

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer is required for mineral exploration which exceeds the above limitation in the Shoreland buffer, or lies within the Resource District (See Article 3.4). All excavations, including test pits and holes, shall be immediately capped, filled, or secured by other equally effective measures, to restore disturbed areas and to protect the public health and safety.

B. Mineral Extraction.

Unless specifically allowed in **Article V, 5.18, A**, above, or in **Article V, 5.19**, "Minor Earthmoving Activities", topsoil, loam, rock, peat, sand, gravel, and similar earth materials may be removed from locations where permitted under the terms of this ordinance only after a reclamation plan has been filed with, and approved, by the Planning Board the CEO and a permit for such operations ~~has~~ have been issued by the Code Enforcement Officer, or Planning Board, as required (See Article 3.4). Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section **5.18.D.13** below.

C. Submission Requirements for Mineral Extraction.

1. Applications to the Planning Board for a permit for the excavation, screening, or storage of top soil, loam, peat, sand, gravel, rock, or other mineral deposits shall be accompanied by a plan prepared according to the performance standards herein.

2. Plans for the proposed extraction site shall include:

- (a) A standard boundary survey of the property lines;
- (b) Names and addresses of owners of abutting property;
- (c) Existing elevations, at not greater than five (5) foot contour intervals as well as the location and slope of the grades proposed upon completion of the extraction operation. Additionally, the plan shall indicate the normal high water lines of great ponds within one hundred (100), horizontal distance, feet of the extraction activities, the normal high water lines of other water bodies within seventy-five (75), horizontal distance, feet of the extraction activities, and the upland edge of wetlands within seventy five (75) feet, horizontal distance, ~~feet~~ of the extraction activities;
- (d) Proposed fencing, buffer strips, signs, lighting;
- (e) Parking and loading areas, entrances and exits;
- (f) A written statement of the proposed method, regularity, working hours;
- (g) Proposed plans and specifications for the rehabilitation and restoration of the site upon completion of the operation;
- (h) An estimate of the elevation of the seasonal high water table within the excavation site shall be submitted. A hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the affected watershed is required for excavations exceeding the minimum lot size indicated in Article 3.2 Dimensional Standards for the district in which the activity is to occur. The Board may require the additional submissions of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.

D. Performance Standards.

1. The top or bottom of any extraction operation may not be closer than twenty (20) feet to a property line or street right of way, unless otherwise mutually agreed to by the affected landowner and town but in no instance may said cut or fill exceed a 3:1 slope (30%) for excavations under the minimum

**Comment [J317]:** Clarification, consolidation, and addressing LUO conflicts for various types of exploration & extraction throughout the ordinance.

**Comment [J318]:** Legal notifications are the responsibility of the town and inherent in the administration of the application process. ie - The Town has to re-verify every name-address given, and collect abutter information from tax maps for mailing notifications. Duplicating efforts.

**Comment [J319]:** Addressed in another section - Article 4.2 Noise (redundant)

**Comment [J320]:** Consolidated and clarified with other relevant sections in the LUO, and more affirmative.

## PORTER LAND USE ORDINANCE

lot size indicated in Article 3.2 Dimensional Standards in the district for which the activity is to occur.

2. Natural vegetation shall be left and maintained on the undisturbed land.
3. ~~2.~~ If any standing water accumulates, the site shall be fenced in a manner adequate to keep out children. Measures shall be taken to prevent or stop the breeding of insects.
4. ~~3.~~ Slopes steeper than 3:1 slope up to 2:1 within 20 feet of a property line are permitted at any extraction site with a fence at least six (6) feet high, erected to limit access to such locations. No slopes steeper than 3 feet horizontal to 1 foot vertical are permitted at any extraction site unless a fence at least 6 feet high is erected to limit access to such locations.
5. ~~4.~~ Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation.
6. ~~5.~~ Any topsoil and subsoil suitable for purposes of revegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this section.
7. ~~6.~~ Sediment shall be trapped by diversions, silting basins, terraces and other measures designed by a professional engineer, for excavations exceeding the minimum lot size indicated in Article 3.2 Dimensional Standards in the district for which the activity is to occur.
8. ~~7.~~ The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure.
9. ~~8.~~ The hours of operation at any extraction site shall be limited as the Planning Board deems advisable to ensure operational compatibility with nearby residences.
9. Excavation may not extend below five (5) feet above the seasonable high water table without the submission of detailed findings of the depth of the water table. The Board may, upon verified determination of the depth of the seasonal high water table, permit excavation within two (2) feet above the water table.
10. Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods are subject to approval by the Road Commissioner and the Planning Board. No mud, soil, sand, or other materials may be allowed to accumulate on a public road from loading or hauling vehicles, beyond normal road dust, sands, and salts associated with the condition of town roads.
11. All access and/or egress roads leading to or from the extraction site to public roads shall be treated with suitable materials to reduce dust and mud for a distance of at least fourty (40) feet from such public roads. (ie. crushed gravel wheelwashes).
12. No equipment debris, junk, or other material is permitted on an extraction site. Any temporary shelters or building erected for such operations and equipment used in connection therewith shall be removed within thirty (30) days following completion of active extraction operations.
13. Within twelve (12) months following the completion of extraction operations at any extraction site or any one or more locations within any extraction site, or which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the approved plans filed with the Planning Board. These plans shall provide for the following:

**Comment [DDS321]:** MEDEP Chapter 1000 2015 update and coordination

**Comment [J322]:** Clarification

**Comment [J323]:** Clarification and coordination with the various types of mineral exploration & extraction in the LUO.

**Comment [J324]:** Has to be a written regulation, not subjective, in accordance with Common Law. This is also redundant to the proposed upgraded Article IV Noise regulation (Chapter 375 MEDEP regulations)

**Comment [J325]:** Unenforceable as previously written and given the current condition of infrastructure in the town.

**Comment [J326]:** 50 foot wheelwashes, whether passive or active, are typical, reasonable, and competent design standards.

PORTER LAND USE ORDINANCE

- (a) All debris, stumps, boulders, and similar materials shall be removed or disposed of in an approved location or buried and covered with a minimum of two (2) feet of soil. Only materials generated on-site may be buried or covered on-site.

NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the Solid Waste Management Rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.

Comment [J327]: DEP stated should not be incorporated into a municipalities locally adopted ordinance.

- (b) The extent and type of fill at the excavation site(s) shall be appropriate to the use intended. The applicant shall specify in the application, all types and amounts of fill to be used.
(c) Storm drainage and water courses shall leave the location at the original natural drainage points and in manner such that the amount of drainage at any point is not significantly increased.
(d) At least 4 inches of topsoil or loam shall be retained to cover all disturbed areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project. The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter in all areas outside of Shoreland buffer (2 1/2:1 slope is required within any Shoreland Buffer).

Comment [J328]: Clarification and simplification.

Comment [J329]: Prescriptively changing finish slope from cut-fill scope and mandating depth is uncoordinated and not enforceable and wastes material and taxpayer money.

Comment [J330]: 2 1/2 not coordinated with other LUO regulations and does not coordinate with cut-fill allowances. Not enforceable.

14. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, horizontal distance, of the normal high water line of a great ponds, and or within seventy-five (75), feet, horizontal distance, of the normal high water line of any other water body, tributary stream, or the upland edge of wetlands. Within the setback area, a vegetated buffer shall be maintained consistent with the Clearing of Vegetation for Development Standards of the Porter Land Use Ordinance.

Comment [J331]: Redundant to Article IV standards, which ALL uses have to adhere to.

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

Comment [J332]: Redundant to the intent of the Land Use Ordinance, multiple articles, and multiple itemized regulatory sections.

5.19 5.16 Minor Earthmoving Activities.

- A. The following minor earth moving activities do not require a permit from the Planning Board:
1. The Code Enforcement Officer may authorize the following earth-moving activity in any District, except the Resource Protection District designated as having wildlife value, provided that such earth-moving activity does not alter any water course, wetland, or natural drainage way and meets the requirements of this Ordinance:
(a) The filling, removal of material, and grading of a site which does not change the topography of the land, as it exists on the effective date of this subsection, by more than 1/2 foot average.
(b) The filling, removal of material, and grading of an area which is not in excess of 40,000 square feet.
(c) The removal or filling of material incidental to construction, alteration, or repair of a building or in the grading and landscaping incidental thereto.
(d) The removal, filling, or transfer of material incidental to construction, alteration, or repair of a public or private way or essential services, such as a fire pond, unless located within two hundred fifty (250) feet of the shoreline.

Comment [J333]: Article III Section 3.4 Footnote 5 - other regulations also provide guidelines for all conditions in this ordinance, including Resource Protection.

Comment [J334]: Coordination of the ordinance with standard means and methods, topography, Comprehensive Plan, and this ordinance (c).

## PORTER LAND USE ORDINANCE

2. All other earth-moving, processing, and storage in excess of 20,000 square feet of disturbed lot in any approved District requires a permit authorized by the Planning Board.

Comment [J335]: Coordination with b and c of this ordinance.

### 5.20 5.17 Mobile Home Parks.

A. Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State laws and local ordinances or regulations. Where the provisions of this section conflict with specific provisions of the Porter Subdivision Regulations, the provisions of this section prevail.

A.B. The applicant for a Land Use Permit under this specific use shall submit a fully scaled site plan prepared by a surveyor or engineer licensed in the State of Maine. For structures proposed to be erected, structures to be moved or removed, structural modifications to the interior of existing structures, and exterior additions to existing structures, the plan must reflect:

1.) Existing and proposed contours, wetlands regardless of size, water bodies, proposed buildings, wells, parking, roadways, and lot lines;

2.) The shape, size, and location of the lot, to scale, on which the structure is, or is proposed to be, located.

3.) The shape, size, and location on the lot of the structure(s), removal(s), or addition(s), to scale, located and noted as to distances and dimensions from lot lines, roadways, and other existing elements (structures, wells, waterbodies, etc.)

4.) Interior demising to indicate dimensions of spaces, and notations of intended square footage per room and any appurtenances.

5.) A standard boundary survey of the property on which the use is proposed, prepared by a surveyor licensed in the State of Maine.

Comment [PB336]: More thorough plan details for a competent review.

### B-C. Lot Area and Lot Width Requirements.

Notwithstanding the dimensional requirements for Mobile Home Park Lot located in Article III, 3.2, of this Ordinance, lots in a mobile home park shall meet the following lot area and lot width requirements.

1. Lots served by individual subsurface wastewater disposal systems, as follows:

(a) Minimum lot area: 20,000 square feet

(b) Minimum lot width: 100 feet

2. Lots served by a central subsurface wastewater disposal system approved by the Maine Department of Human Services, as follows:

(a) Minimum lot area: 12,000 square feet

(b) Minimum lot width: 75 feet

~~3. The overall density of any park served by any subsurface wastewater disposal system may not exceed one dwelling unit per 20,000 square feet of total park area.~~

~~4. Lots located within any shoreland zoning district shall meet the lot area, lot width, and shore frontage requirement for that district.~~

Comment [PB337]: Moved below into a "Density Section"

Comment [J338]: Redundant to this Ordinance - Articles III and IV

### D. Unit Setback Requirements

~~1. Structures may not be located less than 15 feet from any boundary lines of any individual lot.~~

## PORTER LAND USE ORDINANCE

~~2. On lots which abut a public way either within the park or adjacent to the park, or on lots which are located within the shoreland zoning district, structures shall meet the front setback requirements found in the dimensional requirements of Article III, 3.2, of this Ordinance.~~

~~1. Continuous Buffer and Visual Screening are required (excluding driveway entrance(s)), see Article VI 4.2 (Landscape Buffer and Screening).~~

### E. Density

1. The net residential acreage is calculated by taking the total area of the lot and subtracting, in order, the following:

(a) 15% of the area of the lot to account for roads and parking.

(b) Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot.

(c) Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.

(d) Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:

[1] slopes greater than 33%.

[2] organic or wetland soils.

[3] 50% of the poorly drained soils unless the applicant can demonstrate specific engineering techniques to overcome the limitations.

(e) Portions of the lot subject to rights of way.

(f) Portions of the lot located in the resource protection zone.

(g) Portions of the lot covered by surface waters.

(h) Portions of the lot utilized for storm water management facilities.

2. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage is divided by the minimum lot size required in the District. A high-intensity soil survey map, certified by a Registered Soil Scientist licensed in the State of Maine, shall be submitted. No building may be constructed on soil classified as being very poorly drained.

3. The overall density of any park served by any subsurface wastewater disposal system may not exceed one dwelling unit per 20,000 square feet of total park area.

Comment [PB339]: Moved below into a "Density Section"

### D. Buffering

~~If a park is proposed with a residential density at least twice the density of adjacent development in existence, or at least twice the density permitted in the zoning district in which the park is located, and if the neighboring land is undeveloped, the park shall be designed with a continuous landscaped area not less than 50 feet in width which may contain no structures or streets. The first 25 feet of the buffer strip, as measured from the exterior boundaries of the park, shall contain evergreen shrubs, trees, fences, walls, or any combination which forms an effective visual barrier to be located on all exterior lot lines of the park, except that driveways shall be kept open to provide for vehicles entering and leaving the park.~~

Comment [J340]: Redundant to specific Article III and IV sections in ordinance regarding set-backs, buffering, screening. Relocated to appropriate Articles, in order of efficient review.

### F. Road Design, Circulation and Traffic Impacts.

1. Streets within a park shall be designed by a professional engineer, registered in the State of Maine.
2. Streets and parking which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in the Porter Subdivision Regulations Design Guidelines (Article 12 Section 12.2 -Traffic conditions).

Comment [PB341]: Affirms design requirements of #2 and #3



PORTER LAND USE ORDINANCE

~~3. Streets which the applicant proposes to remain as private ways shall meet the following minimum geometric design standards:~~

- ~~(a) minimum width of right of way: 23 feet~~
- ~~(b) minimum width of traveled way: 20 feet~~

**Comment [DDS342]:** Arbitrary - private way design guidelines are provided in Article 12 Subdivision Regulations (used in previous #2). Consolidate. Actual standard is 22' ROW (same as state statute for municipal roads), 18' travel width, with 2' shoulders - more thorough.

~~4.3.~~ Any mobile home park expected to generate average daily traffic of two hundred (200) trips per day or more shall have at least two (2) street connections with existing public streets. Any street within a park with an average daily traffic of 200 trips per day or more shall have at least two (2) street connections leading to existing public streets, other streets within the park, or other streets shown on an approved subdivision plan.

~~5.4.~~ No individual lot within a park may have direct vehicular access onto an existing public street.

~~6.5.~~ The intersection of any street within a park and an existing public street shall meet the following standards:

- (a) Angle of Intersection;  
The minimum angle of intersection is 75 degrees.
- (b) Maximum Grade Within seventy-five (75) feet of Intersection.  
The maximum permissible grade within seventy five (75) feet of the intersection is 2% for all parks housing mobile homes.
- (c) Minimum Sight Distance.

**Comment [J343]:** Clarification for all entrances and exits to prevent dragging.

A minimum sight distance of 10 feet for every mile per hour of legal speed limit on the existing road shall be provided. Sight distance is measured from the driver's seat of a vehicle that is ten (10) feet behind the curb or edge of shoulder line with the height of the eye 3.5-1/2 feet above the pavement and the height of the object 4.5-1/4 feet.

**Comment [PB344]:** Stringent sight distance added for risk due to size and summer traffic.

**Comment [J345]:** Standardized with Article IV Section 4.2 A

- (d) Distance From Other Intersections.  
No driveways may be located less than fifty (50) feet from the point of tangent of the public roads at an unsignalized intersection, and less than one hundred twenty-five (125) feet from the point of intersection of the public roads at a signalized intersection.  
The center line of any street within a park intersecting an existing public street may be no less than 125 feet from the centerline of any other street intersecting that public street.

**Comment [J346]:** Clarification and coordination of conditions and conflicting language throughout the LUO.

7. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the *Trip Generation Manual, 1991 Edition*, published by the Institute of Transportation Engineers. If the park is projected to generate more than 400 vehicle trip ends per day, the applicant shall also include a traffic impact analysis by a ~~registered~~ professional engineer registered in the State of Maine with experience in transportation engineering, and submit a stormwater management plan prepared by a professional engineer registered in the State of Maine indicating compliance with the standards of Section 4.2.R.

**Comment [J347]:** This standard no longer exists and is not available to the Board, CEO, or townspeople. Updated ten times.

**Comment [PB348]:** Reaffirming need for substantive stormwater design per the Comprehensive Plan.

F.G. Ground Water Impacts.

1. Assessment Submitted.

Accompanying the application for approval of any mobile home park which is not served by public sewer shall be an analysis of the impact of the proposed mobile home park on ground water quality. The hydrogeologic assessment shall be prepared by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology and shall contain at least the following information:

## PORTER LAND USE ORDINANCE

- (a) A map showing the basic soil types.
- (b) The depth to the water table at representative points throughout the mobile home park.
- (c) Drainage conditions throughout the mobile home park.
- (d) Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.
- (e) An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentrations at any wells within the mobile home park boundaries and at a distance of one thousand (1,000) feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the development's impact on ground water phosphate concentrations shall also be provided.

(f) A map showing any subsurface wastewater disposal systems and drinking water wells within the mobile home park and existing systems, drinking wells, and other water sources that are within 200 two hundred fifty (250) feet of the mobile home park boundaries.

(g) A high-intensity soil survey map, certified by a Registered Soil Scientist licensed in the State of Maine, shall be submitted. No building may be constructed on soil classified as being very poorly drained.

**Comment [J349]:** Coordinated with Land Use Ordinance Regulations and Comprehensive Plan

**Comment [J350]:** Coordinated with Land Use Ordinance Regulations and more stringent

**Comment [PB351]:** In line with the Comprehensive Plan for significant developments.

### 2. Standards for Acceptable Ground Water Impact.

- (a) Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- (b) No mobile home park may increase any contaminant concentration in the ground water to more than one half of the **Primary Drinking Water Standards**. No mobile home park may increase any contaminant concentration in the ground water to more than the **Secondary Drinking Water Standards**.
- (c) If the ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
- (d) If the ground water contains contaminants in excess of the secondary standards, the mobile home park may not cause the concentration of the parameters in questions to exceed 150% of the ambient concentration.

### 3. Subsurface wastewater disposal systems and drinking wells shall be constructed as shown on the map-scaled plan submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the plan.

**Comment [J352]:** Coordinated-clarified

**G. H.** No development or subdivision which is approved under this Section as a mobile home park may be converted to another use without the approval of the Planning Board, and without meeting the appropriate lot size, lot width, setback, and other requirements of this Ordinance. The mobile home park plan shall be recorded at the **Registry of Deeds** and filed with the town and shall include the following restrictions as well as any other notes or conditions of approval:

1. The land within the park shall remain in a unified ownership and the fee simple title to lots or portions of lots may not be transferred.
2. No dwelling unit other than a manufactured housing unit or small house may be located within the park.

**Comment [J353]:** Introduction of new building models developed over the last 25 years - avoid confusion when attempting to define. Maine boat builders benefit from and have the craft skillsets to create Small-Homes and THOWS in Maine, a significant opportunity for this state.

PORTER LAND USE ORDINANCE

3. A lifecycle plan that includes removing infrastructure (roads, concrete pads, shared structures, re-merging lots, etc.) when the development has outlived its purpose or discontinued for five (5) years is to be provided to the Planning Board during application review.

Comment [J354]: A necessary requirement in this era, based on speculation and vacating large developments after opportunity is exhausted (towers, malls, cinemas, box stores, amusement parks, etc...)

5.21 5.20 Multifamily Dwelling Units.

Multifamily (3 or more) dwelling units shall meet all of the Ordinance requirements for a Planning Board authorized permit, ~~detailed in Article VI and~~ including and the following criteria:

Comment [J355]: Limits the Town of Porter and this LUO – Remove. ALL Articles required.

A. Density.

- 1. The net residential acreage is calculated by taking the total area of the lot and subtracting, in order, the following:
  - (a) 15% of the area of the lot to account for roads and parking.
  - (b) Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, ~~as determined by the Planning Board.~~
  - (c) Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
  - (d) Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:

Comment [J356]: Redundant to LUO regulations, and without measureable criteria (subjective - Due Process and IDLA concerns)

[1] slopes greater than 33%.

[2] organic or wetland soils.

[3] wetland soils.

[4] [3] 50% of the poorly drained soils unless the applicant can demonstrate specific engineering techniques to overcome the limitations ~~to the satisfaction of the Planning Board.~~

Comment [J357]: Consolidate

Comment [J358]: Redundant

- (e) Portions of the lot subject to rights of way.
- (f) Portions of the lot located in the resource protection zone.
- (g) Portions of the lot covered by surface waters.
- (h) Portions of the lot utilized for storm water management facilities.

2. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage is divided by the minimum lot size required in the District. A high-intensity soil survey map, certified by a Registered Soil Scientist licensed in the State of Maine, shall be submitted. No building may be constructed on soil classified as being very poorly drained.

B. Water Supply.

- 1. When a multifamily development is proposed within the service area of public water supply system, all dwellings shall be connected to the system, at no expense to the town. The applicant shall demonstrate by a signed letter from an authorized representative of the water district that an adequate water supply can be provided to the development at an adequate pressure for fire fighting purposes. Fire hydrants shall be located so that they are not more than five hundred (500) feet from any building, as hose is laid on the street.
- 2. When a multifamily development is proposed outside of the service area of public water supply system, the applicant shall demonstrate the availability of adequate supply and quality of water for both domestic and firefighting purposes. The Fire Marshall and/or State Regulations may require the construction of fire ponds and dry hydrants. ~~The Planning Board may require the construction of fire ponds and dry hydrants.~~

Comment [PB359]: Local and State Fire Codes and Authority, not PB (who administers)

PORTER LAND USE ORDINANCE

C. ~~It is the responsibility of the owner to provide for rubbish disposal, snow removal, and site maintenance. The owner of the parcel and structure will be held responsible by the town for Ordinance violations related to rubbish disposal, snow removal, and site-safety maintenance, regardless of contractual lease obligations between lessor and lessee. All outdoor storage areas for waste collection shall be enclosed by a wooded or masonry screen at least 6 feet in height.~~

Comment [J360]: This is negotiate in a person-to-person lease. Requires re-wording.

D. ~~A 50 foot landscaped buffer shall be provided along all property boundaries.~~

Comment [J361]: Relocated and consolidated into Article IV regulations for this use (and all others)

~~E.~~ E. Continuous Buffer and Visual Screening are required (excluding driveway entrance(s)), see Article VI 4.2 (Landscape Buffer and Screening).

Comment [DDS362]: Redundant to IV 4.2N Landscape Buffer and Screening Chart - Relocated.

~~F.~~ F. All developments containing fifteen (15) or more dwelling units are to have more than one street access (for emergency and safety purposes). ~~may be required by the Planning Board to have more than one street access (for emergency and safety purposes). No more than 2 accesses shall be allowed on any single street or roadway.~~

Comment [J363]: Coordination of LUO regulations and removing redundancies outlined in more specific regulatory sections.

~~F.~~ G. Recreation and Open Space. All multifamily developments ~~or of twenty-five (25) dwelling units or more shall provide a developed play area no smaller than five thousand (5,000) square feet. Any development in which occupancy is restricted to the elderly need not provide a play area, but space shall be provided for outdoor recreation.~~

Comment [JT364]: error, believed to be intended to address large-scale developments.

~~G.~~ H. There shall be at least fifty (50) feet between principal buildings.

~~H.~~ I. Each principal building shall be set back at least 50 feet from any exterior lot line, and from any existing or proposed public road.

Comment [J365]: Redundant to the LUO and specified in Article III and IV

~~J. Subdivision Regulation Design Guidelines (Article 12 Section 12.2 -Traffic conditions) are to be applied for all road construction and parking related to this use.~~

Comment [PB366]: Consolidation and clarification of references.

C. Scaled Drawing Submission:

The applicant for a Land Use Permit under this specific use shall submit a fully scaled site plan prepared by a surveyor or engineer licensed in the State of Maine. For structures proposed to be erected, structures to be moved or removed, structural modifications to the interior of existing structures, and exterior additions to existing structures, the plan must reflect:

- 1.) Existing and proposed contours, wetlands regardless of size, water bodies, proposed buildings, wells, parking, roadways, and lot lines;
- 2.) The shape, size, and location of the lot, to scale, on which the structure is, or is proposed to be, located.
- 3.) The shape, size, and location on the lot of the structure(s), removal(s), or addition(s), to scale, located and noted as to distances and dimensions from lot lines, roadways, and other existing elements (structures, wells, waterbodies, etc.)
- 4.) Interior demising to indicate dimensions of spaces, and notations of intended square footage per room and any appurtenances.
- 5.) A standard boundary survey of the property on which the use is proposed, prepared by a surveyor licensed in the State of Maine.

Comment [PB367]: Thorough drawings are reasonable for this development to effectively evaluate.

I.J. Estimates of traffic generation shall be based on the Trip Generation Manual, published by the Institute of Transportation Engineers. If the multi-family dwelling is projected to generate more than 400 vehicle trip ends per day, the applicant shall also include a traffic impact analysis by a professional engineer registered in the State of Maine with experience in transportation engineering, and also submit a stormwater management plan prepared by a professional engineer licensed in the State of Maine indicating compliance with the standards of Section 4.2.R.

Comment [J368]: This standard has been updated ten times since inception.

Comment [PB369]: Beneficial to reaffirm traffic modeling for substantive developments.

## PORTER LAND USE ORDINANCE

K. Violations of any section of the Town of Porter Land Use Ordinance initiated through an Airbnb or VRBO enterprise is the responsibility of the property owner.

L. Airbnb or VRBO enterprises exceeding the maximum occupancy of a dwelling is not permitted, unless a Land Use Application is submitted and approved through the Porter Planning Board.

M. Airbnb or VRBO enterprises that are advertised and promoted as mass-gatherings opportunities and do not restrict the use of alcohol are required to apply for a **Special Amusement Permit** from the Town of Porter.

Comment [PB370]: A simple inclusion to attempt to address new era concerns that have negatively impacted other towns and cities across the nation.

### **5.22 5.21 Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreline Stabilization.**

Comment [DDS371]: DEP Upgrades

A. In addition to Federal or State permits which may be required for such structures and uses, they shall conform to the following:

1. No more than one pier, dock, wharf, or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Article III Section 3.2 Dimensional Standards, a second structure may be allowed and may remain as long as the lot is not further divided.

Comment [J372]: DEP Upgrades

~~1-2~~ Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

~~2-3~~ The location shall not interfere with existing developed or natural beach areas.

~~3-4~~ The facility shall be located so as to minimize adverse effects on fisheries.

~~4-5~~ The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six (6) feet for non-commercial uses.

~~5-6~~ No new structure shall be built on, over, or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

NOTE: A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as a watercraft.

Comment [DDS373]: DEP Upgrades

~~6-7~~ New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

~~7-8~~ No existing structures built on, over, or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units.

(9) Vegetation may be removed in excess of the standards in Article IV Section 4.2 - Clearing or Removal of Vegetation for Development in a Shoreland Zone of this Ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

(a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than

## PORTER LAND USE ORDINANCE

12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

7. (b) Revegetation must occur in accordance with Article IV Section 4.2 - Revegetation Requirements within Shoreland.

Comment [PB374]: MEDEP Upgrades

~~NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., section 480 C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.~~

Comment [J375]: DEP stated should not be incorporated into a municipalities locally adopted ordinance. Need space to reduce size of document.

### B. Application for Planning Board Review.

For any proposed shoreland construction or alteration requiring a permit from the Board of Environmental Protection, a copy of said Permit and all attachments thereto constitute the application to the Planning Board. For all other proposed shoreland construction or alteration, application to the Planning Board shall be made on forms provided for the purpose.

### C. Conditions of Permit.

The Planning Board may authorize the issuance of a permit provided that the criteria applicable to Planning Board Authorized Land Use Permits have been met, and the applicant has clearly demonstrated that the following will be met:

1. The use will not unreasonably interfere with existing recreational and navigational uses, nor unreasonably alter scenic and aesthetic qualities;
2. The use will not unreasonably interfere with or harm the natural environs of any lake, pond, tributary, stream, or river, nor harm any fish or wildlife habitat;
3. The use will not cause unreasonable soil erosion nor lower the quality of any waters;
4. The use will not unreasonably alter the natural flow or storage capacity of any water body; and
5. The use will not create or cause to be created unreasonable noise or traffic of any nature.

### D. Assistance.

The Planning Board may seek assistance from the Department of Inland Fisheries and Wildlife and the Department of Environmental Protection in evaluating these proposals.

### ~~5.23~~ **Recreational Facility.**

~~All recreation facilities shall meet the standards below:~~

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

Comment [J376]: All redundant to the regulations of this ordinance, duplicating and confusing efforts.

### ~~5.24~~ **5.22 Renting Rooms and Apartments.**

## PORTER LAND USE ORDINANCE

- A. ~~As an accessory use in a single family dwelling in the Village District, the renting of rooms or a single apartment in a dwelling existing prior to 1940 is permitted provided the following conditions are all satisfied.~~  
Applies to more than two (2) rental units as an accessory use within a single-family dwelling that each contain cooking, sleeping, and toilet facilities, regardless of the time-period rented.
- B. There may be no new external construction to increase the size of the structure to accommodate the this as an accessory use, except as may be required by safety codes; however, there may be construction within the home to accommodate the accessory apartment.
- ~~C. The water and sewage facilities meet all existing laws and codes.~~
- ~~D. The building is owner occupied.~~
- ~~E. The building meets the lot size and dimensional requirements for a single family home in the district in which it is located.~~
- ~~F. Off street parking is provided to meet the requirements of this Ordinance.~~
- ~~G. All required permits are obtained for construction of the apartment and a certificate of occupancy is obtained prior to the apartment being rented.~~
- ~~H. The accessory apartment is no larger than 40% of the total area of the building.~~
- ~~I. One non illuminated sign, no larger than two square feet in area may be erected on the premises, only during times when a vacancy exists.~~
- ~~J. C.~~ Any apartment created under this section exceeding (2) dwelling units must need not meet the requirements for multifamily housing contained in Article V Section 5.20 elsewhere in this ordinance.
- D. Violations of any section of the Town of Porter Land Use Ordinance initiated through an Airbnb or VRBO enterprise is the responsibility of the property owner.
- E. Airbnb or VRBO enterprises exceeding the maximum occupancy of a dwelling is not permitted, unless a Land Use Application is submitted and approved through the Porter Planning Board.
- F. Airbnb or VRBO enterprises that are advertised and promoted as mass-gatherings opportunities and do not restrict the use of alcohol are required to apply for a Special Amusement Permit from the Town of Porter.

### ~~5.25~~ 5.23 Restaurants.

- A. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity requires a new permit.
- B. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the *Trip Generation Manual*, published by the Institute of Transportation Engineers. If the restaurant is projected to generate more than 400 vehicle trip ends per day, the applicant shall also include a traffic impact analysis by a registered professional engineer with experience in transportation engineering, and also submit a stormwater management plan prepared by a professional engineer licensed in the State of Maine indicating compliance with the standards of Section 4.2.R.
- D. 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.
- E. Signs are to be ground mounted, with masonry or landscaping around the base, and shall not exceed 66' in height above the uppermost grade (See Article IV Section 4.2 – Signs).

**Comment [JT377]:** Conflicts with the Comprehensive Plan and building and code permitting is already in place for this. Room rent consolidated with Bed & Breakfast (shared facilities).

**Comment [JT378]:** LUO coordinated with the Comprehensive Plan. Private homes shall not be deemed or considered lodging places and subject to a license where not more than 3 rooms are let. (Maine DHHS - Rules Relating to Lodging Establishments)

**Comment [JT379]:** The requirements are redundant and addressed in Article III and Article IV, arbitrary, in conflict with the Comprehensive Plan, or inherent in renovation and building permits issued by the CEO.

**Comment [PB380]:** A simple inclusion to attempt to address new era concerns that have negatively impacted other towns and cities across the nation.

**Comment [J381]:** This standard has been updated ten times since introduced in this ordinance.

PORTER LAND USE ORDINANCE

~~B. When subsurface wastewater disposal is proposed, completed soil evaluation forms (HHE-200) shall be submitted. All proposed subsurface disposal systems shall meet the State of Maine State Subsurface Wastewater Disposal Rules.~~

~~C. All parking and loading facilities shall be located to the side or rear of the building, and shall be screened from abutting residences within 200 feet. Screening shall be comprised of a continuous landscaped area not less than 8 feet in width, containing evergreen shrubs, trees, fences, walls, berms, or any combination thereof, forming a visual barrier not less than 6 feet in height.~~

~~Restroom facilities for the patrons shall be provided on the premises.~~

Comment [PB382]: Reworked and allocated to appropriate ordinance sections.

Comment [JT383]: consolidated into Article IV

~~E. Continuous perimeter Buffer and Visual Screening are required (excluding driveway entrance(s)). See Article IV 4.2 - Landscape Buffering and Screening~~

~~F. Uses in this section exceeding Low Impact Standards must also comply with the requirements of Article V Section 5.11.~~

**5.13 5.26 5.7 Civic, Social Service Uses, Churches, and Not-for-Profit Clubs.**

~~A. The applicant shall submit a site plan of the property subject to the application, indicating existing and proposed contours, wetlands regardless of size, water bodies, proposed buildings, new and existing roadways, and parking.~~

~~B. 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.~~

~~C. Signs are to be ground mounted, with masonry or landscaping around the base, and shall not exceed 66' in height above the uppermost grade (See Article IV Section 4.2 – Signs).~~

~~D. Continuous perimeter Buffer and Visual Screening are required (excluding driveway entrance(s)). See Article IV 4.2 - Landscape Buffering and Screening~~

~~E. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the Trip Generation Manual, published by the Institute of Transportation Engineers. If this use is projected to generate more than 400 vehicle trip ends per day, the applicant shall also include a traffic impact analysis by a professional engineer registered in the State of Maine with experience in transportation engineering, and also submit a stormwater management plan prepared by a licensed Maine professional engineer licensed in the State of Maine indicating compliance with the standards of Section 4.2.R.~~

Comment [J384]: This standard has been updated ten times since introduced in this ordinance.

Comment [PB385]: Consolidated requirements for plans, impervious, signage, buffering, screening, and traffic study – loophole caused issues in the past and this use can have significant high impacts.

~~A. A suitably landscaped area, at least 20 feet wide, shall be provided along all property lines, except where driveways enter and exit.~~

~~B. Building shall be at least 50 feet from a property line.~~

~~C. Parking areas and outdoor activity areas shall be effectively screened from view from any residential uses within 200 feet, by a continuous vegetative barrier or stockade fence not less than 6 feet in height.~~

Comment [J386]: Coordinated and standardized - incorporated into Article III and Article IV. Redundant.

**5.27 5.26 Timber Harvesting within the Shoreland Zone. (See Section 1.3B)**

Effective January 1, 2013, Title 12 section 8867-B statewide standards are effective for timber harvesting and related activities in Shoreland areas in accordance with (Title 38 § 438-B6). Contact the Bureau of Forestry: 1-800-367-0223

~~A. Within the strip of land extending 75 feet, horizontal distance, inland from the normal high water line in a shoreland area zoned for Resource Protection District abutting a great pond, there may be no timber harvesting, except to remove safety hazards.~~

~~B. Except in areas as described in 5.27.A above, timber harvesting shall conform with the following provisions:~~



## PORTER LAND USE ORDINANCE

- ~~1. Selective cutting of no more than 40% of the total volume of trees 4 inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any 10 year period is permitted. In addition:
    - ~~(a) Within 100 feet, horizontal distance, of the normal high water line of a great pond or a river, and within 75 feet, horizontal distance, of the normal high water line of other water bodies, tributary streams, or the upland edge of a wetland, there may be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.~~
    - ~~(b) At distances greater than 100 feet, horizontal distance, of a great pond or a river, or greater than 75 feet, horizontal distance, of the normal high water line of other water bodies or the upland edge of a wetland, harvesting operations may not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet, they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.~~~~
  - ~~2. No accumulation of slash may be left within fifty (50) feet, horizontal distance, of the normal high water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than 4 feet above the ground. Any debris that falls below the normal high water line of a water body, or tributary stream, shall be removed.~~
  - ~~3. Timber harvesting equipment may not use stream channels as travel routes except when:
    - ~~(a) Surface water are frozen; and~~
    - ~~(b) The activity does not result in any ground disturbance.~~~~
  - ~~4. All crossings of flowing water require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock, or similar hard surface which would not be eroded or otherwise damaged.~~
  - ~~5. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.~~
  - ~~6. Skid trails and other sites, with the exception of water crossings, where the operation of machinery used in timber harvesting results in the exposure of mineral soil, shall be located such that an unscarified strip of vegetation of at least seventy five (75) feet, horizontal distance, in width for slopes up to 10% shall be retained between the exposed mineral soil and the normal high water line of a water body or upland edge of a wetland. For each 10% increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face may be closer than twenty five (25), horizontal distance, feet from the normal high water line of a water body or the upland edge of a wetland.~~
- ~~C. Except in areas as described in 5.27.A above, timber harvesting in excess of 40% in any 10 year period is permitted with a permit authorized by the Planning Board upon a clear showing, including a forest management plan signed by a Maine Licensed professional forester, that such exemption is necessary for good forest management, and is carried out in accordance with the purposes of the Shoreland Zoning Act.~~

PORTER LAND USE ORDINANCE

~~D. The Planning Board shall notify the Department of Environmental Protection of any permits issued for timber harvesting in excess of 40% within fourteen (14) days of the Planning Board's decision.~~

Comment [J387]: Obsolete, per discussion with the MEDEP at October Zoning Review - January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

5.28 5.25 Tire Storage and Disposal.

This section establishes policies and procedures in the Town of Porter for the storage and disposal of used, scrap or otherwise discarded tires. Storage or disposal of tires at any site in the Town of Porter is prohibited unless specifically approved by the Porter Planning except as exempted in paragraph C (below).

A. Prior to the issuance of any municipal permit for tire storage or disposal, the applicant shall: present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from the DEP stating that a DEP permit is not required.

~~The applicant for a Land Use Permit under this specific use shall submit a fully scaled site plan prepared by a surveyor or engineer licensed in the State of Maine. For structures proposed to be erected, structures to be moved or removed, structural modifications to the interior of existing structures, and exterior additions to existing structures, the plan must reflect:~~

- ~~1.) Existing and proposed contours, wetlands regardless of size, water bodies, proposed buildings, wells, parking, roadways, and lot lines;~~
- ~~2.) The shape, size, and location of the lot, to scale, on which the structure is, or is proposed to be, located.~~
- ~~3.) The shape, size, and location on the lot of the structure(s), removal(s), or addition(s), to scale, located and noted as to distances and dimensions from lot lines, roadways, and other existing elements (structures, wells, waterbodies, etc.)~~
- ~~4.) Interior demising to indicate dimensions of spaces, and notations of intended square footage per room and any appurtenances.~~
- ~~5.) A standard boundary survey of the property on which a tire storage and disposal facility is proposed, prepared by a surveyor licensed in the State of Maine.~~

Comment [PB388]: A more thorough planning intent of the use for evaluation is needed.

A.B. Site Consideration:

1. Water Quality

- (a) No storage/disposal site may be located on a sand and gravel aquifer, or on an aquifer recharge area, as mapped by the Maine Geological Survey, or a ~~licensed~~ geologist licensed in the State of Maine.
- (b) No storage/disposal site may be located within the 100 year floodplain, as mapped by the Federal Insurance Administration, the Army Corps of Engineers, or the U.S. Department of Agriculture.
- (c) A site shall be located, constructed and operated so that ground water will not be contaminated either within or outside of the boundaries of the site.
- ~~(d) No site boundary shall lie closer than 300 feet from any water body, to include intermittent streams.~~
- ~~(d) Continuous perimeter Buffer and Visual Screening are required (excluding driveway entrance(s)). See Article IV 4.2 - Landscape Buffering and Screening~~
- ~~(e) Signs are to be ground mounted, with masonry or landscaping around the base, and shall not exceed 66" in height above the uppermost grade (See Article IV Section 4.2 – Signs).~~

Comment [JT389]: Setbacks and buffers consolidated in Article IV

Comment [PB390]: Consolidated into charts in appropriate sections.

2. Community Protection

- ~~(a) A visual buffer capable of completely screening from view all portions of the site shall be established and maintained along all property lines.~~

PORTER LAND USE ORDINANCE

- ~~(b) The owner or operator shall control access to the site and prevent storage or disposal of unapproved wastes.~~
- ~~(c) There shall be a minimum 150 foot buffer strip between the site boundaries and other property boundaries, wells and springs.~~
- ~~(d) A strip 50 feet wide cleared to mineral soil shall be constructed and maintained on all sides of the tire pile. All grass, weeds, slash, brush and debris shall be removed for a distance of 100 feet in all directions outside the cleared mineral soil strip; trees need not be removed, except that green branches of conifers and dead branches of all trees shall be pruned to a height of 10 feet above the ground; dead snags of all trees shall be removed.~~

~~(e)(a) The owner/operator shall make such arrangements with the Kezar Falls Fire Department or otherwise have available equipment capable of containing a fire at the site as deemed appropriate by the Chief of the Department.~~

~~(e)(b) Continuous perimeter Buffer and Visual Screening are required (excluding driveway entrance(s)). See Article IV 4.2 - Landscape Buffering and Screening~~

~~(c) Prior to approval the applicant shall submit a guarantee acceptable to the town in an amount and form acceptable to the Select Board, taking into account the effects of inflation upon costs, sufficient to pay for the cost of removal of the facility. A motorized vehicle racing facility that is not operated for two (2) years shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the Code Enforcement Officer that the facility has not been abandoned. The Planning Board shall require the submission of proof of adequate insurance covering accident or damage.~~

~~If the owner fails to show that the facility is in active operation for over a two (2) year period, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its preconstruction condition, including the removal of roads, and reestablishment of vegetation.~~

~~The owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed in their entirety and inspected by the Code Enforcement Officer and to the satisfaction of the Planning Board.~~

**Comment [J391]:** All redundant and inherent in the regulations for this use in proceeding Articles of the LUO. It has also been coordinated and consolidated into more accessible and comprehensive charts specific to these issues.

**Comment [DDS392]:** General references to AHJ's recommended.

**Comment [PB393]:** Reference to consolidated chart

**Comment [PB394]:** Bond to reduce townspeople risk of blight upon idle use, to assure clean-up.

C. Exemptions

1. Nothing in this ordinance shall prohibit a resident storing two (2) sets of tires per vehicle registered to the resident or family members.
2. Further, owners or operators of commercial vehicles or race cars may store such new or usable tires or retreadable carcasses as necessary but no more than two (2) complete sets of tires per vehicle registered or in use each season.
3. Accumulations of tires at retail tire dealers, service stations or automobile, truck or heavy equipment repair facilities shall be exempted provided they meet the following requirements:
  - (a) There shall be no more than one stockpile of discarded tires.
  - (b) No stockpile of tires shall exceed one thousand (1,000) square feet and/or four (4) feet in height.
  - (c) Tires are periodically removed from the site

## PORTER LAND USE ORDINANCE

4. Tires used in agricultural activities shall be exempted provided the tires are kept on the site of use or stored out of sight when not in use.

### 5.29 5.19 Motorized Vehicle Racing Facilities.

This section establishes policies and procedures in the Town of Porter for the siting and operation of Motorized Vehicle Racing Facilities.

#### A. Compliance with State Regulations.

1. Prior to issuance of the municipal permit, the applicant shall present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from the DEP stating that a permit is not required.
2. Prior to issuance of the municipal permit, the applicant shall present either a motor vehicle racing license from the Maine Commissioner of Public Safety pursuant to 8 M.R.S.A. Section 562 as amended, or a letter from the Commissioner of Public Safety stating that a motor vehicle racing license is not required.
3. Notwithstanding 8 M.R.S.A. Section 567, all motorized vehicle racing facilities, including those devoted to motorcycle racing, shall comply with the "Rules and Regulations Relating to Structures Used By the Public As Spectators During Motor Vehicle Racing" contained in Chapter 38 of the Rules and Regulations of the Maine Department of Public Safety, as amended; which Regulations are incorporated in this Ordinance by reference.
4. Notwithstanding 29 M.R.S.A. Section 1912 (5), all motor vehicles shall comply with Article IV Section. 4.2.G (Noise) of the Porter Land Use Ordinance.

#### B. Site Considerations

1. No motorized vehicle racing facility may be located on a sand and gravel aquifer, or on an aquifer recharge area, as mapped by the Maine Geological Survey, or a licensed geologist.
2. No motorized vehicle racing facility may be located within the 100 year flood plain, as mapped by the Federal Insurance Administration, the Army Corps of Engineers, or the U.S. Department of Agriculture.
3. Continuous perimeter Buffer and Visual Screening are required (excluding driveway entrance(s)). See Article IV 4.2 - Landscape Buffering and Screening.
4. Signs are to be ground mounted, with masonry or landscaping around the base, and shall not exceed 66" in height above the uppermost grade (See Article IV Section 4.2 – Signs).

~~3. A visual buffer capable of completely screening from view all portions of the motorized vehicle racing facility shall be established and maintained along all property lines.~~

~~4. No portion of any motorized vehicle racing facility may be located within 500 yards of any school, or any dwelling other than that of the owner or operator of the motorized vehicle racing facility.~~

~~5. No portion of any motorized vehicle racing facility may be located within 500 yards of any water body, including wetlands and intermittent streams.~~

~~6.5. No discharge of any fluids from any motor vehicle located within a motorized vehicle racing facility may be permitted into or onto the ground.~~

~~7.6. All motorized vehicle racing facilities shall be located, constructed, and operated so that ground water will not be contaminated either within or outside of the boundaries of the site.~~

~~8. There shall be a minimum 300 foot buffer strip between the boundaries of the motorized vehicle racing facility and other property boundaries, wells, and springs.~~

~~9.7. The owner/operator shall make such arrangements with the Kezar Falls Fire Department or otherwise have available equipment capable of containing a fire at the site as deemed appropriate by the Chief of the Department.~~

Comment [JT395]: 3, 4, 5 consolidated into Article IV

Comment [PB396]: Consolidated into appropriate chart in article IV

Comment [JT397]: Consolidated into Article IV Section 4.2 Landscaping Buffers and Screening

Comment [JT398]: Consolidated into Article IV Section 4.2 Landscaping Buffers and Screening

Comment [JT399]: Generic reference to AHJ's recommended.

## PORTER LAND USE ORDINANCE

~~40.8.~~ In addition to the above standards, all motorized vehicle racing facilities shall comply with all other requirements of the Porter Maine Land Use Ordinance, ~~including, but no limited to, the performance standards set forth in Article IV of the Porter Land Use Ordinance.~~

### C. Submission requirements:

~~All applications for approval of a motorized vehicle racing facility shall include a detailed sealed site plan including, at a minimum:~~

~~1. A standard boundary survey of the property on which the motorized vehicle racing facility is proposed, prepared by a Maine licensed surveyor;~~

~~1. The applicant for a Land Use Permit under this specific use shall submit a fully scaled site plan prepared by a surveyor or engineer licensed in the State of Maine. For structures proposed to be erected, structures to be moved or removed, structural modifications to the interior of existing structures, and exterior additions to existing structures, the plan must reflect:~~

~~1.a.) A standard boundary survey of the property on which the motorized vehicle racing facility is proposed, prepared by a Maine licensed surveyor licensed in the State of Maine;~~

~~b.) Existing and proposed contours at no greater than 5-foot intervals, wetlands regardless of size, water bodies, proposed buildings, wells, parking, and lot lines;~~

~~c.) The location and slope of grades proposed upon completion of the project. Additionally, the plan shall indicate the location of all water bodies, wetlands, and intermittent streams located on or within 300 five hundred (500) yards of the project site;~~

~~d.) The shape, size, and location of the lot, to scale, on which the structure is, or is proposed to be, located;~~

~~e.) The shape, size, and location on the lot of the structure(s), removal(s), or addition(s), to scale, located and noted as to distances and dimensions from lot lines, roadways, and other existing elements (structures, wells, waterbodies, etc.); and~~

~~f.) Interior demising to indicate dimensions of spaces, and notations of intended square footage per room and appurtenances.~~

~~2. Names and addresses of owners of abutting property;~~

~~3. Existing elevations, at no greater than 5 foot contour intervals, as well as the location and slope of the grades proposed upon completion of the project. Additionally, the plan shall indicated the location of all water bodies, wetlands, and intermittent streams located on or within 300 yards of the project site;~~

~~4.2.~~ Proposed fencing, buffer strips, signs, and lighting;

~~5.3.~~ Parking and loading areas, entrances, and exits;

~~6.4.~~ All proposed racecourses or tracks, including any areas of "crew pits" and other vehicle maintenance and repair;

~~7.5.~~ All proposed spectator areas and/or seating;

~~8.6.~~ Proposed hours of operation on a daily, weekly, and annual basis;

~~9.7.~~ Studies by such qualified engineers, environmental consultants, or other suitable professionals as shall be satisfactory to the Planning Board, demonstrating compliance with the following sections of the Porter Maine Land Use ~~Code Ordinance: Sections 4.2(A) (Access Control and Traffic Impacts), 4.2(C) (Dust, Fumes, Vapors, and Gasses), 4.2(G) (Noise), Off-Street Parking and Loading Requirements, Roads and Driveways, Sanitary Standards, 4.2(Q) (Soils and Erosion Control), 4.2(R) (Storm Water Run-Off), and 4.2(S) (Water Quality Protection).~~ The applicant shall be solely responsible for the cost of such professional studies. The Planning Board shall have discretion to order peer review of any such professional studies, at the applicant's expense.

Comment [JT401]: restated below

Comment [JT402]: Moved below - consolidated for organizational purposes

Comment [PB403]: Reworked for clarity

Comment [PB404]: A more thorough description of plan content needed for review.

Comment [JT405]: Double efforts - redundant to municipal administration of the application - it would take more municipal time to verify the list against town records.

Comment [JT406]: Moved up and consolidated, impact zone coordinated with the requirements within this ordinance section

Comment [PB407]: Consistency of document

Comment [PB408]: Omitted specific concerns included for this use.

Comment [JT409]: Remove 2nd and 3rd tier designations, when possible, to avoid errors and commissioning effort in the future.

## PORTER LAND USE ORDINANCE

8. A lifecycle plan that includes removing infrastructure (roads, concrete pads, shared structures, etc.) when the development has outlived its purpose or discontinued for five (5) years is to be provided to the Planning Board during application review.

9. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the Trip Generation Manual, published by the Institute of Transportation Engineers. If the racetrack facilities are projected to generate more than 400 vehicle trip ends per day, the applicant shall also include a traffic impact analysis by a registered professional engineer licensed in the State of Maine with experience in transportation engineering, and also submit a stormwater management plan prepared by a professional engineer licensed in the State of Maine indicating compliance with the standards of Section 4.2.R.

10. Prior to approval the applicant shall submit a guarantee acceptable to the town in an amount and form acceptable to the Select Board, taking into account the effects of inflation upon costs, sufficient to pay for the cost of removal of the facility. A motorized vehicle racing facility that is not operated for two (2) years shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the Code Enforcement Officer that the facility has not been abandoned. The Planning Board shall require the submission of proof of adequate insurance covering accident or damage.

If the owner fails to show that the facility is in active operation for over a two (2) year period, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its preconstruction condition, including the removal of roads, and reestablishment of vegetation.

The owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed in their entirety and inspected by the Code Enforcement Officer and to the satisfaction of the Planning Board.

### ~~5.30~~ 5.27 **Wireless Communication Facilities and Communications Towers**

A. All communication towers and antennas require a permit authorized by the Planning Board. The Planning Board may authorize the placement of antennas and associated equipment onto an existing structure when they are designed to be incorporated into the architecture of new or existing buildings or into the fabric of other manmade or natural structures or features so as to be inconspicuous when viewed at any point beyond the limits of the host property.

B. Collocation permitting is conditional upon proof that the cellular tower facility has been properly maintained to prevent improper access into the facility (fencing perimeter).

C. A lifecycle plan that includes removing infrastructure (roads, concrete pads, shared structures, etc.) when the development has outlived its purpose or discontinued for one (1) year is to be provided to the Planning Board during application review.

D. The applicant for a Land Use Permit under this specific use shall submit a fully scaled site plan prepared by a surveyor or engineer licensed in the State of Maine. For structures or devices proposed to be erected, structures to be moved or removed, structural modifications to the interior of existing structures, and exterior additions to existing structures, the plan must reflect:

1.) Existing and proposed contours, wetlands regardless of size, water bodies, proposed buildings, wells, parking, roadways, and lot lines;

**Comment [JT411]:** Addresses coordination of LUO, Comprehensive Plan, CEO and PB Concerns, specific sections relocate to Article III and IV Tables

**Comment [PB412]:** Bond to reduce townspeople risk of blight upon idle use, to assure clean-up.

**Comment [PB413]:** Addresses security and safety issues that have occurred in the past.

**Comment [PB414]:** A necessary requirement in this era, based on speculation and vacating large developments after opportunity is exhausted (abandoned towers, malls, cluster-mobile parks, cinemas, strip malls, waterparks, etc...)

## PORTER LAND USE ORDINANCE

2.) The shape, size, and location of the lot, to scale, on which the structure is, or is proposed to be, located.

3.) The shape, size, and location on the lot of the structure(s), removal(s), or addition(s), to scale, located and noted as to distances and dimensions from lot lines, roadways, and other existing elements (structures, wells, waterbodies, etc.)

4.) Interior demising to indicate dimensions of spaces, and notations of intended square footage per room and any appurtenances.

5.) A standard boundary survey of the property on which a tower or antenna is proposed, prepared by a surveyor licensed in the State of Maine.

~~B. E.~~ From the finished grade, the maximum height of a communications tower shall be 199 feet including antennas and lightning rods. The height of an antenna shall be included in the total height limitation as allowed for a communications tower.

~~C. F.~~ The tower or antenna shall be placed a minimum distance of 125 percent of the height of the tower or antenna attachment point from any boundary line or any scenic or historic vantage points listed in the Comprehensive Plan to establish a safety and aesthetic zone. The Board of Appeals shall not be authorized to grant a variance from this requirement.

~~D. G.~~ The tower shall not be lit unless mandated by the Federal Aviation Administration or other applicable state and federal requirements.

~~E. F.~~ A new communications tower or antenna and appurtenances shall be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

~~F. G.~~ A new wireless communication facility and tower shall comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision 'G' Standards entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" or its lawful successor.

G. The applicant shall present evidence to the Planning Board that there are no existing structures which may be used to support the antenna and associated equipment. The owner/operator of the tower is required to allow co-location for Municipal and Emergency Services (without compensation), and cellular competitors, until said tower has reached full antenna capacity. Space for any possible future accessory structures shall be shown on the plan.

H. The applicant shall submit a scenic assessment consisting of

a. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.

b. A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.

c. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application process. Each photo shall be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos shall show the color of the facility and method of screening.

d. A narrative discussing the

i. duration of time for which the proposed facility would be visible to a passing motorist, hiker, or boater, within a designated scenic resource, or from a public recreation facility as identified in the comprehensive plan;

ii. the tree line elevation of vegetation within one hundred (100) feet of the facility; and

iii. the distance to the proposed facility from the designated scenic and historic resources' as noted vantage points in the Comprehensive Plan.

Comment [JT416]: recognizes current antenna systems and height of lightning rod.

Comment [JT417]: Clarification of safety perimeter and coordination with municipal aesthetic assets noted in the Comprehensive Plan.

Comment [JT418]: each antenna, structure, and appurtenances are completed independently of tower owner, complicating review.

Comment [JT419]: Current standard updated 8 times since implementing.

Comment [PB420]: Updated 7 times since introduced.

Comment [JT421]: As discussed in prior PB Meetings to service local needs.

Comment [JT422]: Does not legally exist

Comment [JT423]: Omitted - one of the primary entities affected, and coordinated with the Comprehensive Plan

Comment [JT424]: As discussed in prior PB and Comprehensive Meetings

PORTER LAND USE ORDINANCE

I. A security fence to be approved by the Planning Board of not less than eight (8) feet in height from the finished grade shall be provided around the Tower and any accessory structures.

J. Prior to approval the applicant shall submit a guarantee acceptable to the town in an amount and form acceptable to the ~~Select Board of Selectmen~~, taking into account the effects of inflation upon costs, sufficient to pay for the cost of removal of the facility. A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the Code Enforcement Officer that the facility has not been abandoned. The Planning Board shall require the submission of proof of adequate insurance covering accident or damage for the cellular tower facility owner and any subsequent collocation vendors intending to lease space within the facility.

1. Each collocation vendor is required to provide their own guarantee to cover the costs of abandonment, and abandonment language must be present in the lease agreement between the owner of the cellular facility and the vendors intending to lease/collocate on that facility.

2. If the owner of the facility or collocated vendor (Lessee) fails to show that their respective facility is in active operation for twelve (12) consecutive months, the owner shall have sixty (60) days to remove the facility.

3. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its preconstruction condition, including the removal of roads, and reestablishment of vegetation.

4. The owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed in their entirety and inspected by the Code Enforcement Officer and to the satisfaction of the Planning Board.

~~K. The applicant shall meet all other pertinent sections of the Porter Land Use Ordinance.~~

**5.31 5.11 High Impact Commercial and High Impact Industrial Uses**

A. High Impact Commercial or Industrial: A commercial activity meeting any one (1) of the following:

- 1.) Having greater than five thousand (5000) square feet of gross floor area,
- 2.) Having more than ten (10,000) square feet of total impervious surfaces (includes structures and pavement),
- 3.) Generating more than 200 vehicle trips per day, truck equivalent, or a combination of car and truck trips, or
- 4.) Employs twenty (20) or more full time employees, contractors, or equivalents thereof.

B. The applicant for a Land Use Permit under this specific use shall submit a fully scaled site plan prepared by a surveyor or engineer licensed in the State of Maine. For structures proposed to be erected, structures to be moved or removed, structural modifications to the interior of existing structures, and exterior additions to existing structures, the plan must reflect:

1.) Existing and proposed contours, wetlands regardless of size, water bodies, proposed buildings, wells, parking, and lot lines;

**Comment [JT426]:** This was previously a problem in Porter as the tower owner excluded responsibility and the vendor excluded responsibility.

**Comment [JT427]:** This was previously a problem in Porter as the tower owner excluded responsibility and the vendor excluded responsibility.

**Comment [JT428]:** No time limit on inactivity - a metric is needed.

**Comment [JT429]:** Provides decommissioning and clean-up efforts, once opportunity is expended, and verifies ordinance and application permit conditions are fulfilled. CEO enforces, Planning Board administers, per law.

**Comment [JT430]:** Redundant, as the LUO is specific as to individual use requirements.

**Comment [DDS431]:** Encompasses sprawling non-for-profits and mega-churches by removing subjective references.

**Comment [JT432]:** Criteria to right-size high impact based on town socio-economics, the comprehensive plan, traffic design, and state and federal laws.



**PORTER LAND USE ORDINANCE**

- 2.) The shape, size, and location of the lot, to scale, on which the structure is, or is proposed to be, located.
- 3.) The shape, size, and location on the lot of the structure(s), removal(s), or addition(s), to scale, located and noted as to distances and dimensions from lot lines, roadways, and other existing elements (structures, wells, waterbodies, etc.)
- 4.) Interior demising to indicate dimensions of spaces, and notations of intended square footage per room and appurtenances.
- 5.) A standard boundary survey of the property on which the use is proposed, prepared by a surveyor licensed in the State of Maine.

**Comment [PB433]:** Assures clear expectations for plans.

**Comment [JT434]:** A more thorough and competent guideline for preparing plans.

~~The applicant shall submit a detailed site plan of the property subject to the application, prepared by a licensed Maine surveyor or engineer, indicated existing and proposed contours, wetlands regardless of size, water bodies, proposed buildings and parking.~~

**Comment [JT435]:** Redundant - worded more clearly above.

C. 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.

D. Studies by such qualified engineers, environmental consultants, or other suitable professionals as shall be satisfactory to the Planning Board, shall demonstrate compliance with the following sections of the Porter Maine Land Use Ordinance: Access Control and Traffic Impacts, Dust, Fumes, Vapors, and Gases, Noise, Off-Street Parking and Loading Requirements, Roads and Driveways, Sanitary Standards, Soils and Erosion Control, Storm Water Run-Off, and Water Quality Protection. The applicant shall be solely responsible for the cost of such professional studies. The Planning Board shall have discretion to order peer review of any such professional studies, at the applicant's expense.

**Comment [PB436]:** Assures clear expectations for plans.

E. Signs are to be ground mounted, with masonry or landscaping around the base, and shall not exceed 66'' in height above the uppermost grade (See Article IV Section 4.2 – Signs).

**Comment [PB437]:** Consolidated to Article IV

F. Continuous perimeter Buffer and Visual Screening are required (excluding driveway entrance(s)). See Article IV 4.2 - Landscape Buffering and Screening

**Comment [PB438]:** Consolidated to Article IV

**Comment [JT439]:** Consolidation of requirements to appropriate sections of the ordinance.

G. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the Trip Generation Manual, published by the Institute of Transportation Engineers. If the high impact use is projected to generate more than 400 vehicle trip ends per day, the applicant shall also include a traffic impact analysis by a professional engineer registered in the State of Maine with experience in transportation engineering.

**Comment [PB440]:** Assures engineering for maximum traffic threshold.

NOTE: A minimum sight distance of 10 feet for every mile per hour of legal speed limit on the existing road shall be provided. Sight distance is measured from the driver's seat of a vehicle that is ten (10) feet behind the curb or edge of shoulder line with the height of the eye 3.5 feet above the pavement and the height of the object 4.5 feet.

**Comment [PB441]:** Stringent sight distance added for risk due to size and traffic from 200-400 daily trips (truck and cars).

H. Subdivision Regulation Design Guidelines (Article 12 Section 12.2 -Traffic conditions) are to be applied for all road construction and parking related to this use.

**Comment [JT442]:** Coordination of design guidance across regulations.

**PORTER LAND USE ORDINANCE**

~~B. When subsurface wastewater disposal is proposed, completed wastewater system designs on form (HHE 200) shall be submitted. All proposed subsurface disposal systems shall meet the State of Maine State Subsurface Wastewater Disposal Rules.~~

~~C. All parking and loading facilities shall be located to the side or rear of the building, and shall be screened from abutting residences within 200 feet. Screening shall be comprised of a continuous landscaped area not less than 8 feet in width, containing evergreen shrubs, trees, fences, walls, berms, or any combination thereof, forming a visual barrier not less than 6 feet in height.~~

~~D. The applicant shall submit a stormwater management plan prepared by a licensed Maine profession engineer indicating compliance with the standards of Section 4.2.R.~~

**Comment [JT443]:** Addresses coordination of LUO, Comprehensive Plan, CEO and PB Concerns, specific sections relocate to Article III and IV Tables

DRAFT

## PORTER LAND USE ORDINANCE

### ARTICLE VI: ADMINISTRATION, ENFORCEMENT AND PENALTIES

#### 6.1 Administering Bodies and Agents

- A. Code Enforcement Officer. The ~~Select~~ Board ~~of Selectmen~~ shall appoint a Code Enforcement Officer (CEO) annually by July 1st.
- B. Board of Appeals. A Board of Appeals shall be created in accordance with the provisions with the provisions of [30-A M.R.S.A. section 2691](#).
- ~~C.~~ Planning Board. A Planning Board shall be created in accordance with the provisions of State Law.

#### 6.2 Enforcement

- A. It is the duty of the CEO to enforce the provisions of this Ordinance, the applicable sections and provisions of the current Porter [Subdivision Regulation](#), the [Building Code](#), any other local land use ordinances, and state statutes over which the town has enforcement responsibility. If the CEO finds that any provision which is the duty of the CEO to enforce is being violated, the CEO shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and ordering the action necessary to correct it. The CEO shall order the removal of illegal buildings, structures, additions, or work being done, or shall take any other action authorized by this Ordinance to insure compliance with, or to prevent violation of, its provisions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
- B. The CEO shall also investigate all complaints of alleged violations of this Ordinance.
- C. The CEO may conduct on-site inspections to insure compliance with all applicable laws and conditions attached to approval. The CEO may enter any property at reasonable hours and enter any structure with the consent of the property owner, occupant, or agent, to inspect the property or structure for compliance with all the regulations the CEO is authorized to enforce. If consent is denied the CEO shall obtain an administrative warrant before entering the property. The CEO may revoke a permit after proper notification if it was issued in error or if based on erroneous information.
- D. The CEO shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variance granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. ~~On a biennial basis, a summary of all records involving property in a Shoreland zone shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.~~

Comment [DDS444]: DEP Upgrades updating language.

#### 6.3 Permit Requirements.

- ~~A.~~ No person may, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit according to [Article III, 3.4](#), or [Article IV 4.2 Signs](#); or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed
- ~~A.B.~~ A permit is required for the replacement of an existing [public](#) road culvert subject to approval of the Road Commissioner.

**EXCEPTION: A permit is not required for the replacement of an existing private road culvert for any replacement culverts not more than 25% longer than the culvert being replaced and less than 75 feet in total length.**

Comment [J445]: DEP Regulation incorporated

## PORTER LAND USE ORDINANCE

~~B.~~C. Adequate erosion control measures shall be taken to prevent sedimentation of the water, and the crossing shall not block fish passage in the water-course.

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

~~E.~~E. If any portion of the property is within one thousand (1000) feet of the Ossipee River Boundaries, approval by the Saco River Corridor Commission is required before permit applications are processed. (Go to <http://srcc-maine.org/regulations/forms/> )

### 6.4 Land Use Permits.

Land Use Permits may be authorized by the CEO or the Planning Board, in accordance with **Article III, 3.4.**

### 6.5 Land Uses and Activities Not Requiring a Land Use Permit Fee.

1.) As designated per Article 3.4 - Uses Permitted

2.) As designated per Article IV 4.2-Signs

3.) No permit shall be required for repairs or improvements not involving structural changes when the reasonable cost is less than \$5,000.00

4.) This Ordinance shall apply to, but no permit fee is required for, the following, unless a variance is required, in which case a building permit is required:

a.) An accessory structure which does not exceed one hundred (100) square feet in area;

b.) A temporary roadside stand used for sale of flowers, vegetables, fruit, or similar produce which does not exceed one hundred (100) square feet in area and which remains in place for less than seven (7) months in any period of twelve (12) consecutive months;

c.) Steps, stairs, or wheelchair ramps used exclusively to gain access to a building doorway;

d.) Roofs constructed without attachment to the ground and used exclusively to provide weather shelter to doorways or steps; and

e.) A boundary wall or fence.

f.) An assembled hoop garage or a storage container no larger than two hundred (200) square feet and ten (10) feet in height.

~~a-g.)~~ Replacement of existing windows and doors in existing openings. (If changing the size or shape of the window or door, requiring wall work, a permit is required.)

~~2-h.)~~ Replacement of house siding and roofing shingles.

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

**Comment [DDS446]:** Move to Fee chart of consolidated building, subdivision, and luu fee charges

**Comment [DDS447]:** Per Approved Porter Building Code

**Comment [J448]:** Provides no appreciable benefit to other taxpayers (valuation, taxation, fees, community), still requires verification of setback per LUO and ordinance performance standards, part-time CEO and funding is not designed for this of intense regulation, not worth taxpayers paying time and travel reimbursements, not in keeping with the Comprehensive Plan, and not in keeping with the Building Code. There are also dozens of towns in Maine that exempt 100 SF to 200 SF or less (or \$1000-\$5000 or less) in incidental accessory structures from being levied fees and permits.

**Comment [PB449]:** These are typical necessary and incidental activities that do not appreciate tax valuations.

PORTER LAND USE ORDINANCE

6.6 Permit Application.

A. Every applicant for a Land Use Permit shall submit to the CEO a written application, including a sealed site plan, on forms available from the Town Office. Supplemental information in narrative, report, and/or development plan form, as appropriate, shall also be submitted to the CEO, and shall include the following information:

Comment [J450]: Defined for each extraordinary use in Article V and coordinated with the Comprehensive Plan. This was taken from regulations intended for uses within 250 feet of water resources (Shoreland), not standard uses that do not interfere with water protection.

- 1. The name, address, and telephone number of the property owner.
2. A copy of the deed to the property and, if the applicant is not the owner of the property, other proof of right, title, or interest.
3. The name, address, and telephone number of the person or firm involved in the construction or land use on the property.
4. A statement of the proposed use for any new or moved structure or altered portion of an existing structure.
5. Any other information, in narrative, report, or development plan form, as appropriate, necessary to clearly indicate that the proposed land use or activity will conform to all applicable provisions of this Ordinance.

5-6.

6-7. Subsurface Wastewater: (a) A valid sub-surface waste water permit application, including site evaluation approved by the Plumbing Inspector whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

Comment [PB451]: Added subtitle.

(b) Use of an existing sub-surface waste water system requires the submission of written notification from the Plumbing Inspector that the existing system is adequate for the proposed use.

8. Certification of Excavation Contractor in Shoreland: In accordance with 38 M.R.S.A Section 439-B, when an excavation contractor will perform an activity that requires or results in more than one (1) cubic yard of soil disturbance within 250 feet of Shoreland buffer, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.

Comment [J452]: DEP Upgrades

7-9. For structures proposed to be erected, structures to be moved, structural modifications to the interior of existing structures, and exterior additions to existing structures:

- (a) The shape, size, and location of the lot on which the structure is, or is proposed to be, located.
(b) The shape, size, and location on the lot of the structure or additions, precisely located and noted as to distances and dimensions from lot lines, roadways, and other existing elements ( structures, wells, waterbodies, etc.).
(c) The shape, size, and location of any other existing structures on the lot.

Comment [JT453]: Clarified right-sized based on use intensity.

8-10. A certification that the information in the application is complete and correct to the best of the applicant's knowledge and belief.

9-11. The signature of an owner of the property or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder and the date of the application.

## PORTER LAND USE ORDINANCE

~~10.12.~~ The application fee.

- B. Upon receipt of an application for a Land Use Permit the CEO shall note on the application the date which it was received and shall:
1. Determine whether the land use or activity is allowed by this Ordinance in the District where it is proposed. If the use or activity applied for is not allowed, the CEO shall deny the application within fourteen (14) calendar days of receipt of the application.
  2. Determine whether the CEO or the Planning Board is the Reviewing Authority of the land use or activity contained in the application. If the land use or activity contained in the application is one over which the Planning Board has review authority, the application shall be forwarded by the CEO to the Planning Board (in care of the Town Office), the CEO will notify the Planning Board in writing what required information is missing, and the applicant will be so notified by the CEO, within ten (10)fourteen (14) calendar days of receipt of the application, to the Planning Board (in care of the Town Office) and the applicant so notified, within 10 days of receipt of the application.

**Comment [DDS454]:** No time limitation to this government action and is unreasonable. 14 days was inserted to assure an anticipated response and a path to conclusion.

**Comment [DDS455]:** Ordinance administration durations provide for no rejection of application by the CEO, before the application is turned over to the Planning Board. This wastes taxpayer time and money.

### 6.7 Land Use Permit Review Procedure by the CEO.

- A. Within fourteen (14) calendar days of receipt of the written application the CEO shall determine whether the application is complete. If the application is not complete the CEO shall notify the applicant in writing that it is not complete and shall indicate what information is missing.
- B. Once the CEO has determined that the application is complete, the CEO shall determine whether the application is satisfactory.
- C. An application is satisfactory if it clearly indicates that the proposed land use or activity will conform to all applicable provisions of this Ordinance, and other applicable codes or ordinances of the town, and is accompanied by the required fee.
- D. If the application is satisfactory, the CEO shall, within twenty one (21) days of its receipt, issue the Land Use Permit, notify in writing the Planning Board and the Select Board of Selectmen, and file the application, including all narrative reports, and development plans filed with application, and a copy of the permit, in a permanent file in the town office.
- E. If the application is not satisfactory, the CEO shall, within twenty one (21) days of determining that it is a complete application, deny the permit and state in writing the reasons for the denial.
- F. The CEO shall deny any Land Use Permit if the CEO has knowledge that the proposed land use or activity would be located in an unapproved subdivision and/or if the proposed land use or activity would be in violation of this Ordinance, any other local ordinance or code, or if any other Ordinance violation exists on the property.

**Comment [J456]:** Deleted via Article 4 at Annual Town Meeting in 1994 - not adjusted in LUO

- ~~G. If the CEO can not judge that the proposed land use or activity will conform to all applicable provisions of this Ordinance, or other applicable codes or ordinances of the town, the CEO may, after notification to, and at the expense of, the applicant, provide the application to the Planning Board for administration of the proposed land use or activity, employ one or more independent consultants to ensure compliance with all requirements of this Ordinance. The estimated costs of such studies shall be deposited with the Town Treasurer prior to their undertaking. Any money not spent shall be reimbursed to the applicant.~~

**Comment [DDS457]:** MMA legal questioned the vague nature of this language and legality - It must be more specific.

**Comment [DDS458]:** If eight (8) people (the CEO and full composition of the Planning Board) with 118 pages of regulations and procedures are unable to make a decision, then additional consulting is warranted through Planning administration.

### 6.8 Land Use Permit Review Procedure by the Planning Board.

- A. Once the Planning Board has received the application they shall schedule review of the application on the next available Planning Board meeting. The next available meeting could be the next meeting or it could be a later meeting depending on the length of the Planning Board review waiting list. The Planning Board shall notify the applicant that the application has been received.

PORTER LAND USE ORDINANCE

B. No application may be considered at a Planning Board meeting unless it has been filed through the CEO with the Planning Board (in care of the Town Office) by the first day of the month of that regularly scheduled Planning Board meeting.

C. Ten (10) days prior to the Planning Board meeting at which the application will be reviewed for completeness, the Planning Board shall notify in writing ~~the CEO and in writing by first class mail:~~

1. The CEO

~~2.~~ The applicant.

~~3.~~ All other persons owning land within two hundred (200) feet ~~in~~ of the lot on which the land use or activity is proposed if located in the Village District, and five hundred (500) feet of the lot on which the land use or activity is proposed if located in any other district.

~~4.~~ The Board shall inform the above that the application may be reviewed for approval or any other action as stated in ~~Section 6.78.H, 6.78.I. 4 & 5; or 6.78.J.~~, at the same meeting, time permitting.

D. The Planning Board shall also, ten (10) days prior to the Planning Board meeting, post a notice at the Town Hall. The notice posted and the notice specified in Subsection C above shall state the name of the applicant, the land use or activity proposed, the location of the proposed land use or activity, and the date, time, and location of the Planning Board meeting.

E. Within thirty five (35) days of the date of receiving a written application the Planning Board shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. If the application is not complete, the Planning Board may not review the application to determine if it is satisfactory. Incomplete applications which remain inactive for a period of three (3) months shall be considered withdrawn and a new application and fee must be submitted for the board's review.

F. If the Planning Board determines that the application is complete, it shall either begin review or schedule a meeting at which it will begin review to determine if the application is satisfactory. The application is satisfactory if it clearly indicates that the proposed land use or activity will conform to the provisions of this Ordinance, and other applicable codes or ordinances of the town, and is accompanied by the required fee.

G. Ten (10) days prior to the date of the meeting at which the Planning Board will begin review of the application to determine if the application is satisfactory ~~the Planning Board shall notify in writing the Board shall notify by mail:~~

1. The CEO,

~~2.~~ The applicant, and

~~3.~~ All other persons owning land within two hundred (200) feet in the lot on which the land use or activity is proposed if located in the Village District and five hundred (500) feet of the lot on which the land use or activity is proposed if located in any other district.

H. The Planning Board shall use the following procedure when reviewing the application to determine whether it is satisfactory:

~~2.~~1. The applicant presents the application and explains ~~how or states that~~ the proposed land use or activity will conform to all applicable provisions of this Ordinance, and other applicable codes or ordinances of the town. The applicant may present oral and written documentation.

~~3.~~2. Questions from those present, including Planning Board members, may be asked through the Planning Board Chair.

~~4.~~3. The applicant or any other party may be represented by an agent.

Comment [DDS459]: Outdated requirement, and imposes significant and unnecessary costs onto town taxpayers. Not performed in the past, likely for this reason.

Comment [DDS460]: Made 3 error corrections and removed redundancy in this section.

Comment [DDS461]: Coordination with language in 6.8C for consistency

Comment [DDS462]: A number of requirements are self-explanatory, and need only confirmation or a statement of non-applicability. Others require more thorough discussion. There is a need to convey both situations.

## PORTER LAND USE ORDINANCE

4. The Planning Board is to review the information presented and determine if the proposed land use or activity will conform to all applicable provisions of this Ordinance. The Planning Board shall approve, approve with conditions, or deny all permit applications in writing within thirty five (35) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, ~~or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.~~ This time period may be extended by mutual agreement of a majority of the Board and the applicant.
5. If the Planning Board needs more time to review the application and the information presented, or if the applicant needs more time to present additional information to show that the application is satisfactory, the Planning Board may vote to continue review of the application to another Planning Board meeting which is within thirty-five (35) days of receiving a completed application. The time period may be longer by mutual agreement of the applicant and the Planning Board. The motion to continue shall state the reason for the continuation and the date, time, and location of the meeting to which it is continued.
6. The Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:
  - a. Is in conformance with the applicable provisions of Articles I, II, III, and the Performance Standards in Article IV and Article V, and VIII of this Ordinance.
  - b. Is supported by the goals and objectives of the approved Comprehensive Plan.
  - c. Is complete with respect to Applicant submission requirements within the Land Use Permit Application, and in conformance with the applicable provisions of Articles VI and VII.
    - a. ~~Will maintain safe and healthful conditions;~~
    - b. ~~Will not result in water pollution, erosion, or sedimentation to surface waters;~~
    - c. ~~Will adequately provide for the disposal of all wastewater;~~
    - d. ~~Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;~~
    - e. ~~Will conserve shore cover and visual, as well as actual, points of access to inland waters;~~
    - f. ~~Will protect archaeological and historic resources as designated in the comprehensive plan;~~
    - g. ~~Will avoid problems associated with floodplain development and use; and~~
    - h. ~~Is in conformance with the provisions of Article 4 and Article 5, Performance Standards, of this Ordinance.~~
- I. If the Planning Board can-not judge that the proposed land use or activity will conform to all applicable provisions of this Ordinance, the Board may, after notification to, and at the expense of the applicant, no longer than thirty-five (35) days after receiving a completed application employ one or more independent consultants to ensure compliance with all requirements of this Ordinance. The estimated costs of such studies shall be deposited with the Town Treasurer prior to their undertaking. Any money not spent shall be reimbursed to the applicant.
- J. If a permit is denied or approved with conditions, the reasons as well as conditions shall be stated in writing. The Planning Board shall deny any Land Use Permit if it has knowledge that the proposed land use or activity would be located in an unapproved subdivision, or would be in violation of any local ordinance, or regulation, or statute administered by the municipality.
- K. EXCEPTION: In addition to the criteria specified in Article VI, Section 6.8 H.6, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential

**Comment [DDS463]:** Approve, deny, or conditional written decisions are required regardless - this is an omission within the ordinance that requires a time constraints. In addition, public hearings regarding applications are not a requirement of the Planning Board in Porter, this was mistakenly copied from an older DEP regulation that is not applicable.

**Comment [DDS464]:** Extensive redundancies consolidated into three (3) concise requirements, and utilizing the specific regulations in the LUO that address these issues (even those specific regulations repeatedly re-state these issues multiple times).



## PORTER LAND USE ORDINANCE

structure in a Resource Protection District located within Tax Maps U-1, U-2, U-4, U-5, U-7, U-8, provided the applicant demonstrates that all of the following conditions are met:

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

(2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.

(3) All proposed buildings, sewage disposal systems and other improvements are:

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

(b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

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

(4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of (one thousand five hundred) 1,500 square feet. This limitation shall not be altered by variance.

(5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than seventy-five (75) feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

### 6.9 Burden of Proof.

The applicant has the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance and the Comprehensive Plan.

### 6.10 Expiration of Permit.

Permits shall expire one (1) year from the date of issuance if a substantial start is not made in construction or in use of the property during that period. If a substantial start is made within one (1) year of the issuance of the permit, the applicant shall have one (1) additional year to complete the project, at which time the permit shall expire.

### 6.11 Installation of Public Utility Service.

**Comment [J465]:** DEP Regulations - Omitting this regulation contradicts with the long term Comprehensive Plan goals of the Town, disperses residential sprawl across the rural community, does not direct it to designated zones, and diminishes the value and potential of buildings with historic significance within the community.

**Comment [DDS466]:** The LUO is to create the goals of the Comprehensive Plan

## PORTER LAND USE ORDINANCE

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

Comment [JT467]: grammar correction

### 6.12 Certificate of Occupancy Required.

A. A certificate of occupancy issued by the CEO is required, if required, is to be provided in advance of the use or occupancy of:

1. Any lot, or change in the use of any lot from one use category to another according to Article III, 3.4.
2. A structure hereafter erected or a change in the use category of an existing structure, or as the building code requires.
3. Change in the occupant of an Article V Use high impact commercial use or a low impact or high impact industrial use.

Comment [DDS468]: Many structures in this LUO do not require a Certificate of Occupancy (as they are not occupied) - This requires additional definition. #3 excludes many other types of use changes and should be re-visited. Auto graveyard, wireless tower, special hazardous waste, tire dump, water extraction motor vehicle racing facility are not articulated.

B. No certificate of occupancy may be issued unless the proposed improvements to the lot and/or building have been completed or a performance guarantee covering the cost of their completion has been given to the town according to Section 6.13 below, and the lot, building, or structure complies with all the provisions of this Ordinance, and any other local ordinance or code. A record of all certificates of occupancy shall be kept on file in the office of the CEO, and a copy shall be furnished, on request, to any person having a proprietary or tenancy interest in the structure or land involved. A duplicate copy shall be filed in the office of the tax assessor and the certificate of occupancy shall state specifically the uses it permits.

C. To ensure the continued health and safety of rental dwelling units, the Town shall conduct periodic inspections of rental units for which the Code Enforcement Officer has received a written complaint from two or more individuals within a three-month period, and/or finds a condition creating a health and safety problem. This periodic inspection period will continue for a period of two (2) years, or until the Code Enforcement Officer finds that the conditions are satisfactorily resolved. The inspections procedure shall be as follows:

1. The owner of the property and the tenant will be notified by hand delivery or by certified mail in writing of the pending inspection, no less than five (5) days prior to the actual inspection.
2. Failure to allow the Code Enforcement Officer to conduct the required inspection may result in the Town seeking an Administrative Inspection Warrant or other appropriate court order(s) to enter the property for the express purpose of a health or safety inspection.
3. Failure to pass the health and/or safety inspection will result in the rental dwelling unit being declared unfit for occupancy. The unit will not be occupied until such time as the conditions have been corrected.
4. Occupancy of a rental dwelling unit declared as "unfit for occupancy" will result in enforcement action. The fines for violation of this section, upon conviction, shall be in accordance with the provisions of 30-A M.R.S.A. sec. 4452.

Comment [JT469]: Acknowledges delivery systems that exist

Comment [JT470]: Acknowledges authority and intent of Health Officers in municipalities

Comment [DDS471]: Consistency with section C above.

Comment [DDS472]: Consistency with section C above.

### 6.13 Legal Action and Violations.

Violations of this Ordinance include, but are not limited to:

## PORTER LAND USE ORDINANCE

1. Engaging in a land use or activity without obtaining prior approval as required from the Review Authority-
2. Occupying a lot or building without first obtaining a Certificate of Occupancy, as required.
3. Failing to maintain all of the improvements proposed in the narrative, report and development plan portions of the approved application.
- 3-4. Willful neglect of the performance requirements of the Ordinance.

**Comment [DDS473]:** This is omitted, but is a large portion of the Ordinance (rules for everyone are not only enacted through a permit from the CEO or PB - ie sound, light, blocking traffic, septic failure, poisoning water, erosion, resource protection, refuse disposal, fumes, and dust can be caused by any townsperson unrelated to structure or usage.)

When any violation of any provision of this Ordinance is found to exist, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the town. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements may not allow an illegal structure or use to continue unless there is clear and convincing evidence that either:

- a.) the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official,
- b.) ~~and~~ there is no evidence that the owner acted in bad faith, or
- c.) unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

### 6.14 Fines.

Any person, firm or corporation being the owner, contractor, or any other entity having control or use of any structure or premises who violates any provision or requirement of this Ordinance may be penalized in accordance with provisions of 30-A M.R.S.A. section 4452. Each day such a violation is permitted to exist after notification constitutes a separate offense. Fines are payable to the town.

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NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5000 (38 M.R.S.A. section 4452).

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### 6.15 Performance Guarantees.

- A. The purpose of a performance guarantee is to assure that the land use or activity proposed by the applicant and approved by the Review Authority, including all of the improvements proposed in the application whether in narrative, report, or development plan form are completed as proposed.
- B. At the time of approval of an application for a Land Use Permit, the Review Authority may require the applicant to give to the town a performance guarantee. If circumstances such as weather conditions do not permit the completion of all improvements proposed by the applicant, occupancy may take place but only after a performance guarantee has been given to the town covering the full cost to the town of their completion.
- C. The performance guarantee may be either a certified check payable to the town, an irrevocable letter of credit from a lending institution, or a performance bond payable to the town issued by a surety company. The performance guarantee shall be in an amount adequate to cover the total costs of all required improvements, taking into account the time-span of the guarantee and the effects of inflation upon costs. The conditions and amount of the performance guarantee shall be determined by the Review Authority after discussion with the Select Board of Selectmen.

## PORTER LAND USE ORDINANCE

- D. Prior to the release of any part of or the entire performance guarantee, the Review Authority shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested. Any interest accumulated on an escrow account shall be returned with any money owed by the town to the developer after it has been determined that the proposed improvements meet all design and construction requirements.
- E. If the Review Authority finds, upon inspection of the improvements performed before release of the guarantee, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, the Review Authority shall so report to the ~~Select Board of Selectmen~~. The town shall then notify the applicant and, if necessary, the bonding company or lending institution and take all necessary steps to preserve the town's rights under the guarantee.

### 1. Fees.

A. ~~The Select Board of Selectmen shall annually set the amount of all fees required by this Ordinance, including the review fee indicated in b below, which is usable by the Review Authority to hire independent consulting services.~~, including the review fee indicated in b, below, which is usable by the Review Authority to hire independent consulting services.

B. The applicant shall pay into a special account the cost to the town ~~of for~~ hiring independent consulting services. The fee shall be determined after the Review Authority has secured an estimate of the cost of the services and the applicant has ~~seen been provided~~ the estimate. If the balance in the special account is drawn down by 75%, the Review Authority shall notify the applicant, ~~in writing~~ and require an additional amount. Any balance in the account remaining after a final decision on the application shall be returned to the applicant.

Comment [DDS474]: Move or reference Fee Chart of consolidated building, LUO, and subdivision fees.

### 6.17 Appeals.

Appeals of decisions from the Review Authority, either the CEO or the Planning Board, may be taken to the Appeals Board according to the provisions of **Article VII**.

## ARTICLE VII. BOARD OF APPEALS

### 7.1 Establishment and Organization.

- A. A Board of Appeals is hereby established. It consists of five (5) members. Members of the Board of Appeals are appointed by the municipal officers. A municipal officer or municipal officer's spouse may not be a member of the Board of Appeals.
- B. The term of office of a member is three (3) years serving staggered terms. Initial terms are one member for one (1) year, two for two (2) years, and two for three (3) years.
- C. When there is a permanent vacancy, the municipal officers shall appoint a new member to serve for the remainder of the unexpired term.
- D. Members of the Board of Appeals shall be legal residents of Porter when appointed and serving.
- E. Members of the Board of Appeals may be removed from office by the municipal officers for cause upon written charges and after public hearing. "For cause" includes failure of a board member to attend three consecutive meetings without the recorded consent of the Chair.
- F. The Board of Appeals shall annually elect a Chair, Vice Chair, and Secretary from its own membership.
- G. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting shall be decided by a majority of the members, except the member who is being challenged.

## PORTER LAND USE ORDINANCE

### 7.2 Proceedings of the Board of Appeals.

- A. A quorum necessary to conduct business of the Board of Appeals is three (3) members.
- B. The Board of Appeals shall adopt rules necessary to the conduct of its affairs, in keeping with the provisions of this Ordinance and Title 30-A M.R.S.A., Section 2691.
- C. Meetings are held at the call of the Chair and at such other times as the Board of Appeals may determine. All meetings are open to the public.
- D. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or of absence or failure to vote, and shall keep records of its examinations and other official actions, all of which are a public record and shall be filed with the Town Clerk.

### 7.3 Powers and Duties of the Board of Appeals.

The Board of Appeals has the following powers:

- A. Administrative appeal of the CEO.

To hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance by the Board of Appeals is not appealable to the Board of Appeals.

Comment [JT475]: clarification

- B. Administrative appeal of the Planning Board.

To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in its administration of this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance by the Board of Appeals is not appealable to the Board of Appeals.

Comment [JT476]: clarification .

## PORTER LAND USE ORDINANCE

### C. Variances.

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

## 7.4 Variances.

Variances may be granted only under the following conditions:

- A. Variances may be granted only from dimensional requirements: **lot frontage, structure height, lot coverage, and setback requirements.**
- B. Establishment or expansion of uses otherwise prohibited are not allowed by variance. A variance may not be granted simply because of the presence of non-conformities in the district or uses in adjoining districts.
- C. The Board of Appeals may not grant a variance unless it finds that the strict application of the terms of this Ordinance would result in undue hardship. The term “undue hardship” shall mean:
  1. That the land in question cannot yield a reasonable return unless a variance is granted;
  2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  3. That the granting of a variance will not alter the essential character of the locality; and
  4. That the hardship is not the result of action taken by the applicant or a prior owner.
- D. Such hardships may only be found by the Board of Appeals where this Ordinance as applied to the applicant’s property, substantially destroys or decreases the value of the property in question for any permitted use to which the land or property can reasonably be put. Mere inconvenience to the property owner does not satisfy this requirement. Financial hardship alone or pleading that a greater profit may be realized from the applicant’s property if a variance is granted is not sufficient evidence of unnecessary hardship. Personal hardship may not be considered as grounds for a variance, since the variance will continue to affect the character of the neighborhood after title to the property has passed.
- E. The variance granted may only be the minimum variance that will make possible the reasonable use of the land or structure in order to preserve the terms of the Ordinance as much as possible, and the Board of Appeals may impose such conditions to a variance as it deems necessary, to this end.
- E.F. The party receiving the variance and any subsequent owner of the property shall comply with any conditions imposed.
- E.G. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

## 7.5 Administrative Appeals

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

When the Board of Appeals hears a decision of the Planning Board, it shall hold an “appellate” hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of

PORTER LAND USE ORDINANCE

Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

7.6 Appeal Procedure.

A. Making an Appeal:

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 7.3 (above). Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
2. Applications for appeals may be made by filing with the Board of Appeals a written notice of appeal on forms provided which includes:
  - (a) A sketch drawn to scale showing lot lines, location of existing structures and other physical features pertinent to the relief request.
  - (b) A concise written statement stating what relief is requested and why it the appeal or variance should be granted.
  - (c) ~~Upon receiving an application for an administrative appeal or a variance, the CEO or the Planning Board, as appropriate shall transmit to the Board of Appeals copies of all papers which make up the record of the decision appealed from.~~
3. When an appeal is filed, it shall be examined for completeness and accuracy, and particularly to determine whether all information necessary to make a determination has been supplied. Where information is lacking or inadequate at the time of submission and the deficiency cannot be remedied immediately, the applicant (in a de novo review) or Planning Board (in an Article 7.5-b appellate remand) shall be notified in writing of the incompleteness.
4. ~~If the additional information is not received prior to the date the public notice of the "de novo" hearing shall be issued, a hearing may not be scheduled until such deficiency is remedied.~~
5. ~~If the additional information (appellate remand) is not received from the Planning Board prior to the date the public notice of the " appellate" hearing shall be issued, a hearing will continue to be scheduled.~~
3. ~~If the additional information is not received prior to the date the public notice of the hearing shall be issued, a hearing may not be scheduled until such deficiency is remedied. It is the responsibility of the Board of Appeals Chair to determine completeness.~~
4. ~~Upon receiving an application for an administrative appeal or a variance, the CEO or the Planning Board, as appropriate shall transmit to the Board of Appeals copies of all papers which make up the record of the decision appealed from.~~
5. Each application for an appeal shall be accompanied by a fee to cover all advertising and administrative costs, unless the Appeal is granted.
6. The Board of Appeals shall hold a public hearing on an administrative appeal (de novo or appellate) or a request for a variance within thirty-five (35) days of the receipt of the complete written application, unless this time period is extended by the parties.

B. Notification:

Comment [DDS477]: Clarification of Appeals Process. It is not always the applicant that is to be notified of incompleteness (PB as well).

Comment [JT478]: Clarification of the review process and types.

Comment [DDS479]: Moved up in this section due to early relevance and order.

Comment [DDS480]: A reasonable and competent regulation, if an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board is acknowledged by Appeals ruling.

Comment [DDS481]: Clarification and legal review types by law.

## PORTER LAND USE ORDINANCE

1. At least ten (10) days prior to the date of the hearing on the appeal, the Board of Appeals shall cause to be published once in a newspaper of general circulation in the town a written notice which includes:
  - (a) The name of the person appealing.
  - (b) A brief description of the property involved.
  - (c) A brief description of the decision appealed from, or the nature of a variance appeal.
  - (d) The time and place of the Board's hearing.

2. At least ten (10) days prior to the date set for hearing, the Board of Appeals shall also notify by first class mail:

- (a) All property owners of record whose properties lie within two hundred (200) feet of the property in the Village District and five hundred (500) feet of the property in other districts, and
- (b) The person making the appeal.
- (c) The Planning Board, the CEO, and any other party of record shall also be notified in writing

The Planning Board, the CEO, and any other party of record shall also be notified in writing.

3. The Board of Appeals shall keep a record of all parties notified.
4. Failure of any property owner to receive a notice of any public hearing does not necessitate another hearing or invalidate any action by the Board of Appeals.

**Comment [DDS482]:** Outdated and cost-prohibitive for taxpayers. Not performed in the past, likely because of this.

**Comment [DDS483]:** Moved up to (c)

### C. Hearings:

1. The Board of Appeals may shall receive any oral or documentary evidence but shall also provide, as a matter of policy, for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party has the right to present a case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.
2. The applicant's case is heard first. To maintain orderly procedure, each side has the right to proceed without interruption. All persons at the hearing shall abide by the order of the Chair.
3. At any hearing, a party may be represented by an agent. Hearings may not be continued to other times except for good cause. For example, if the Board of Appeals determines that the appeal before it was inappropriately classified, the Board of Appeals shall give the applicant the opportunity to amend the application and continue the hearing until the public has been properly notified of the appeal's reclassification and of the time and place when the hearing will continue.
4. The CEO or designated assistant, or the Planning Board Chair if the appeal is of their decision made in the administration of Article 15 (Subdivision Regulation Appeals), shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material the CEO or Planning Board deems appropriate for an understanding of the appeal.
5. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, constitutes the record.
6. The record may be kept open after the hearing by order of the Board of Appeals' Chair until a date established by the order.

**Comment [DDS484]:** Coordination with 2nd sentence

**Comment [DDS485]:** Error in text corrected

**Comment [DDS486]:** Coordination of LUO language

**Comment [JT487]:** Clarification to ordinance to refer to another regulation.

## 7.7 Decisions of the Board of Appeals.

- A. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.



## PORTER LAND USE ORDINANCE

- B. The person filing the appeal shall have the burden of proof for "de novo" review and variance appeals. An "appellate" appeal process burden of proof relies on Planning Board procedural application and documentation. All three shall receive any oral or documentary evidence during the proceedings.
- C. The Board of Appeals shall decide all administrative appeals and variance appeals within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- D. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. Copies of written decisions shall be mailed ~~or hand delivered~~ to the applicant and agent, the Planning Board, the CEO, and the Municipal Officers within ~~seven (7)~~ten (10) days of the decision date.
- E. Upon notification of the approval of an appeal by the Board of Appeals, the CEO or Planning Board shall comply with the orders of the Board of Appeals.
- F. The Board shall cause written notice of its decision concerning property in the shoreland zone to be mailed ~~or hand delivered~~ to the Department of Environmental Protection within ~~seven (7)~~ten (10) days of the decision.
- G. Whenever the Board of Appeals grants a variance, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title, and indicating the act that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. For the purpose of this subsection, the date of the final written approval is the date stated on the written approval. This certificate shall be recorded by the property owner in the Oxford County Registry of Deeds within ninety (90) calendar days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded. For the purpose of this subsection, the date of the final written approval is the date stated on the written approval.
- H. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five ~~(45)~~ 30 days from the date of any decision of the Board of Appeals.
- I. Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision shall be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration shall occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court shall be made within fifteen (15) days after the decision on reconsideration.

### 7.8 Stay of Proceedings.

An application to the Board of Appeals for the granting of an appeal stays all legal proceedings related to the appeal unless the CEO certifies to the Board of Appeals, after the notice of appeal has been filed with the CEO, that by reason of facts stated in the certificate a stay would, in the CEO's opinion, cause irreparable harm to property or create a threat to the life or health of any person including the applicant. In such case, the CEO, if legally authorized by State law or local Ordinance, may seek injunctive relief or, in appropriate cases, refer the matter to the municipal officers for prosecution.

**Comment [DDS488]:** Clarification and legal requirements depending on the Appeal Type (there are three).

**Comment [DDS489]:** This requirement is not attainable for many small rural towns and is not reasonably achieved. Older LUO versions corrected this within the PB process (but omitted the Appeals process).

**Comment [DDS490]:** This requirement is not attainable for many small rural towns and is not reasonably achieved. Older LUO versions corrected this within the PB process (but omitted the Appeals process).

**Comment [DDS491]:** Moved up in paragraph to more relevant flow.

**Comment [DDS492]:** Written error corrected - shows two dates.

PORTER LAND USE ORDINANCE

7.9 Fees.

The application fee shall be set annually by the Board of Selectmen/Select Board, to cover all advertising and administrative costs, unless the Appeal is granted. If the actual cost of advertising and notification exceeds the fee paid, the applicant shall pay the balance.

Comment [DDS493]: Move to fee chart of all consolidated building, LUO, and subdivision fees.

Comment [DDS494]: A reasonable and competent regulation, if an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board. A conspicuous posting of fees strengthens local democracy and ethics.

ARTICLE VIII. DEFINITIONS AND WORD USAGE

8.1 Construction of Terms

A. In this Ordinance, certain terms or words are to be interpreted as follows:

- 1. The word "person" includes a firm, association, organization, partnership, two or more individuals having a joint or common interest, trust, estate, company, governmental agency, municipality, or corporation as well as an individual or any other legal entity;
2. The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular;
3. The word "shall" is mandatory, and the word "may" is permissive. The use of "may" as in "no buildings may be built," means that permission is not granted to build buildings and thus they are not allowed to be built;
4. The words "used" or "occupied" includes the words "intended", "designed", or "arranged to be used or occupied";
5. The word "building" includes the word "structure," and the word "dwelling" includes the word "residence";
6. The word "lot" includes the word "plot" or "parcel".

B. In case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text controls (excluding Article 1.14 relating to metes and bounds).

C. Terms not defined comply with State Statute definitions or have the customary Oxford English dictionary meaning, or, if not located, a Webster dictionary meaning, dictionary meaning.

Comment [DDS495]: Clarification and coordination of the LUO.

Comment [DDS496]: A more concise guidance to resolve interpretation disputes.

8.2 Definitions

In this Ordinance the following terms have the following meanings unless a contrary meaning is specifically prescribed:

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

Adult Business: Any business a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in material or devices of any kinds which appeal to prurient interests and which depict or describe specific sexual activities. As applied to a business which sells, or rents, or leases such materials or devices, "substantial or significant portions" means 25% or more of the floor area of the unit of occupancy in which the business is located is used to display, shelve, or store such materials or devices. As applied to a business which exhibits or displays films, video tapes, or similar reproductions for viewing by the patrons on the premises, "substantial or significant portion" means that, in any single day, 25% or more of the total display or exhibition time is devoted to such materials.

## PORTER LAND USE ORDINANCE

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

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

**Comment [DDS497]:** DEP regulation corrects definition.

**Agriculture:** The production, keeping, or maintenance for sale or lease of plants ~~and~~/or animals, including but not limited to: forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, other livestock, fruits and vegetables, and ornamental ~~and~~ greenhouse products exceeding ten (10) acres. Agriculture review does not include intensive or industrial animal farming (Animal Husbandry > 30AEU or 300 AFO/CAFO), incidental home occupations or farm stands <100 SF, forest management and-or, timber harvesting activities.

**Comment [DDS498]:** DEP Upgrades correct definition.

**Comment [PB499]:** There has been confusion in the past, farmstands and home occupations that sell farm related products are not large scale agriculture.

**Comment [JT500]:** Missing Definition.

**Airport:** ~~A tract of land where aircraft take off and land. An airport includes those facilities for public as well as private use.~~

**Comment [DDS501]:** Underutilized LUO pagespace for a use infeasible in this town. Exists in standard definitions and State Statute, if needed.

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

**Altered Structure:** A change in either the intensity of use, such as the addition of bathrooms, kitchens, bedrooms, or the duration of the use, such as conversion from seasonal to year round use.

**Alternative Toilet:** A device designed to treat human waste only. Examples are: privies and compost, chemical, recirculating, incinerating, and vacuum toilets. Portable toilets are not considered alternative toilets as they are only for temporary use.

**Animal Husbandry:** An intensive animal farming or industrial livestock production approach towards farm animals in order to maximize production output, while minimizing production costs. It includes the keeping of livestock such as cattle or poultry in confinement and/or at higher stocking densities than is usually the case with most farms (Most farms operate at less than 30 AU's (Animal Units) and less than a 300 AFO (Animal Feeding Operation). ~~The growing and/or raising of livestock and/or poultry for commercial purposes.~~

**Comment [DDS502]:** Differentiation from agriculture and small scale enterprises. Contradicts Comprehensive Plan.

**Antenna:** Any exterior apparatus or collection of apparatus designed for telephone, radio, television, personal communications service, pager network, or any other communications through the sending or receiving of electromagnetic waves of any bandwidth, except for those used only for the reception of television or radio signals. The Federal Telecommunications Act exempts amateur "ham" radio stations.

**Antique Store:** ~~A business which sells primarily antiques.~~

**Comment [PB503]:** Standard definitions apply and are accessible, if needed.

## PORTER LAND USE ORDINANCE

**Apartment:** A group of rooms designed and equipped exclusively for use by one family or individual at a time as permanent, seasonal, or temporary living quarters and which contains independent living, cooking, eating, sleeping, bathing, and sanitary facilities. The term includes rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented.

**Comment [JT504]:** Missing definition.

**Aquaculture:** The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**Comment [PB505]:** Standard definitions apply and are accessible, if needed.

**Area of Special Flood Hazard:** The land in the flood plain having one percent or greater chance of flooding in any given year, as specifically identified in the flood insurance studies conducted by the Federal Emergency Management Agency.

**Assisted Living Facility:** A type of dwelling which is occupied by elderly persons and/or handicapped persons and that provides shared community space and shared dining facilities and normally also provides its residents with housekeeping services, personal care and assistance, transportation assistance, recreational activities, and/or specialized shared services such as medical support services. By “elderly” persons is meant a person 60 years old or older, or a couple that constitutes a household and at least one of whom is 60 years old or older at the time of entry into the facility. By “shared community space” is meant space designed to be used in common for the enjoyment and leisure of residents of the facility, such as, by way of example only, reading rooms, sitting rooms, recreational rooms, rooms for entertaining guests, and exercise rooms. By “shared dining facilities” is meant a room or rooms designed for the serving of meals to residents sitting together, plus the kitchen and ancillary facilities required to prepare the meals. An “Assisted Living Facility” shall include either or both of the following types of residential units: dwelling units, as defined by this Ordinance, that is-, single housekeeping units with living, sanitary, and sleeping and permanent cooking facilities; and residential care units, which do not meet the definition of dwelling unit because they have no cooking facilities within the units, but which normally consist of rooms with sleeping and sanitary facilities. Additionally, the term assisted living facility includes specialized facilities that provide long-term residential care, such as those designed specifically for persons with Alzheimer’s Disease or other afflictions of the elderly for which specialized care outside of a nursing home may be appropriate. “Assisted Living Facility” is distinct from “nursing home,” which is defined separately.

~~**Automobile Graveyard:** A place, not enclosed in a building, used to store 3 or more unserviceable, discarded, worn out, or junked motor vehicles or parts thereof, other than temporary storage by an establishment or place of business which is engaged primarily in doing motor vehicle repairs to make the motor vehicles serviceable.~~

**Automobile Graveyard:** "Automobile graveyard" means a yard, field or other outdoor area that is not enclosed and is used to store **three (3) or more unregistered or uninspected motor vehicles, or parts of the vehicles (which may or may not included electronic components).** "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations. Reference State Statutes **Title 30-A Section 3752 Subsection 1 & Title 29-A Section 101, subsection 42.**

**Comment [DDS506]:** Current ordinance language is insufficient to effectively and legally enforce.

**Automobile Hobbyist:** An automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from vehicles on their premises.

**Comment [DDS507]:** Junkyards and Auto Graveyard ordinance language is insufficient to effectively and legally enforce.

**Auto Repair Shop:** A business where any of the following services may be performed to motor vehicles as a business: general repair; parts replacement; collision service, such as body, frame or fender straightening and repair; or painting and undercoating.

## PORTER LAND USE ORDINANCE

~~**Auto Washing Facilities:** A business containing facilities for washing motor vehicles using production-line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices; or providing space, water, equipment, or soap for the complete or partial washing of motor vehicles, whether by operator or customer.~~

**Comment [PB508]:** Standard definitions apply and are accessible, if needed.

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

**Basement:** Any portion of a structure with a floor-to-ceiling height of six (6) feet or more and having more than 50% of its volume below the existing ground level.

~~**Bed and Breakfast, and Inn:** Any residential structure in which non-housekeeping rooms are offered and rented to the public for periods typically less than 30 days and in which 1 meal per day ~~is~~ may be available and only to the occupants. The building shall also be occupied by the resident manager or owner. There may be no provisions for cooking in any individual guest room.~~

**Comment [DDS509]:** Coordination of lodging types in LUO

**Boarding House:** Any residential structure in which rooms or rooms and meals are provided for compensation for a period of at least one (1) week. Meals may be available to only the occupants. The building shall also be occupied by the resident manager or owner. There may be no provisions for cooking in any individual guest room.

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

**Comment [JT510]:** Not used in Ordinance, standard definitions apply and are accessible, if needed.

**Building:** A structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, goods or property of any kind.

~~**Building Height:** The vertical distance between the highest point of the roof and the average grade of the ground adjoining the building. Solar energy or wind equipment extending above the building are exempt from height restrictions. See, Height of Structure.~~

**Comment [DDS511]:** Redundant - 3rd reference to this in LUO.

~~**Bureau:** State of Maine Department of Conservation's Bureau of Forestry.~~

~~**Bureau of Forestry:** State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.~~

**Comment [DDS512]:** DEP Upgrades.

**Business Sign:** An attached or free standing structure which directs attention to a business or profession conducted on the premises.

**Cabinetry and Woodworking Shop:** A business, either commercial or home business, where furniture and other items are made from wood.

**Campground:** Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

**Canopy:** The more or less continuous cover formed by tree crowns in a wooded area.

## PORTER LAND USE ORDINANCE

**Carpentry and Building or Trade Contractor:** A business engaged in the provision of carpentry or building construction service off the premises, but which has an office and equipment or materials stored on the premises.

**Comment [DDS513]:** A more inclusive and clarifying definition of construction sub-categories.

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

**Comment [DDS514]:** Redundant

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

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

~~**Chemical and Bacteriological Laboratory:** A business containing facilities for preparing, manufacturing, or testing chemicals or bacteria.~~

**Comment [JT515]:** Not used in Ordinance, standard definitions apply and are accessible, if needed.

**Civic and Social Service:** A non-profit, charitable institution, not including a private club, the primary function of which is serving the health or social welfare of the community.

**Cluster Development:** A development approach in which building lots are reduced in size and buildings sited closer together than is allowed under non-clustered requirements, provided that the total development density does not exceed that which could be constructed on the site under conventional, non-clustered requirements, and there is a provision for permanent open space. The cluster development shall be developed in accordance with the performance standards in Article V , the Subdivision Regulations, and State Law.

**Comment [JT516]:** Clarification of definition with Subdivision Regulations. This regulation should be returned to Subdivision Regulations to be fully enforceable.

**Code Enforcement Officer:** A person appointed by the Board of Selectmen to administer and enforce this Ordinance, and other land use ordinances and regulations as authorized by this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like where applicable.

**Commercial Use:** the utilization of lands, buildings, or structures, other than a "home occupation", "farm and farm related ventures", "garage and yard sale" or the rental of a residential building and/or two (2) dwelling units within a residential building occupied by the owner, defined below in this Article, the intent and result of which activity is the production of income from the buying and selling of goods and/or services.

**Comment [DDS517]:** MEDEP regulation definition and coordination with the LUO.

**Communications Tower:** Any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purpose of supporting one or more antenna. The term includes radio or television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and similar structures. The Federal Telecommunications Act exempts amateur "ham" radio stations.

**Comprehensive Plan:** A document or interrelated documents adopted by the Legislative Body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the

## PORTER LAND USE ORDINANCE

community, an expression of policies for achieving these goals, and a strategy for implementation of the policies that are to be supported by municipal regulations.

Comment [JT518]: Missing Definition

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

**Constructed:** Includes built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, associated with construction, are considered a part of that construction.

~~**Cross-sectional Area:** The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high water line on one side of the channel to the normal high water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high water lines of the stream or tributary stream channel to the bottom of the channel. (See Section 1.3B)~~

Comment [J519]: January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

**dBb (A):** The abbreviation designating both the unit of measure of sound level -- the decibel, and the mode of measurement that gives the A-weighting of a sound level meter.

~~**DBH:** The diameter of a standing tree measured 4.5 feet from ground level. (See Section 1.3B)~~

Comment [J520]: January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

**Day Care Center:** An establishment, other than a "home occupation", defined below, licensed as required by the Maine Department of Human Services, where 13 or more children under the age of 6 are cared for in return for compensation.

Comment [DDS521]: This is outdated: There are three (3) distinctive types of this use in accordance with the DHHS, with varying capacities, ages, and permitting needs.

**Deck:** An uncovered structure with a floor, elevated 30' or greater above ground level.

Comment [DDS522]: Coordinated with LUO and Building Code

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

Comment [DDS523]: Inherent in the maintenance, repair, upkeep, and safety of property - redundant to building code and the LUO.

**Decibel (dBb):** The practical unit of measurement for sound pressure level, the number of decibels of a measured sound is equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated db.

Comment [DDS524]: redundant

**Development:** A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

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

Comment [DDS525]: DEP regulations definition correcting definition.

**Disability:** Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap or health or sensory impairment which requires special education, vocational rehabilitation or related services, as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as determined

PORTER LAND USE ORDINANCE

~~by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.~~

Comment [DDSS26]: Clarified to assure proper evaluation.

~~Disruption of Shoreline Integrity: The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross section, and in the case of flowing waters, a profile and character altered from natural conditions. (See Section 1.3B)~~

Comment [J527]: January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

**District:** A specified portion of the town, delineated on the Official Zoning Map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance. Resource Protection, Stream Protection, Shoreland Limited Residential (Other), and Shoreland Limited Residential (Great Ponds) are considered "Buffer Zones" to protect water.

Comment [DDSS28]: Clarification and coordination of LUO.

**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.

~~Dry Cleaner: An establishment where garments, and the like, are cleaned by using solvents and not soap and water.~~

Comment [JT529]: Not used in Ordinance, standard definitions apply and are accessible, if needed.

Dwelling: Dwelling is any fixed structure which contains one or more "Dwelling Units" used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or which are occupied for living purposes. A fixed structure, containing one or more dwelling units.

Comment [J530]: From approved Porter Building Code Definition

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

**Dwelling, Two-Family:** A building containing only two (2) dwelling units, for occupation by not more than two (2) families.

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

Dwelling Unit: A room or group of rooms (suite) designed and equipped exclusively for use by one family at a time as permanent, seasonal, or temporary living quarters and which contains independent living, cooking, sleeping, bathing, and sanitary facilities. The term includes manufactured housing, small homes, and rental units that contain independent living, cooking, sleeping, bathing, and toilet facilities regardless of the time-period rented but not recreational vehicles, motel units, or park "model" mobile homes.  
~~A room or group of rooms designed and equipped exclusively for use by one family at a time as permanent, seasonal, or temporary living quarters and which contains independent living, cooking, eating, sleeping, bathing, and sanitary facilities. The term includes manufactured housing and, small homes, and rental units that contain cooking, sleeping, and toilet facilities regardless of the time period rented. Recreational vehicles, including so-called park model mobile homes are not residential dwelling units.~~

Comment [J531]: Coordinated with the Porter Building Code definition

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

**Educational Facility:** A public or private setting where any one of more of the following activities occur:



## PORTER LAND USE ORDINANCE

1. Courses of study meeting state compulsory education requirements for Grades K through 12, including GED instruction, are taught.
2. Courses of study are taught to pre-kindergarten students.
3. A place where any specialized branch of knowledge, ~~such as including, but not limited to:~~ dancing, gymnastics, music, automobile driving, mentoring, vocational, business skills, ~~not including or~~ horseback riding, is taught.

**Comment [DDS532]:** Coordinated with the Comprehensive Plan

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

**Essential Services:** Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil water, slurry or other similar pipelines; municipal –sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants, and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Excavation:** Any removal of earth material from its original position.

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

**Comment [DDS533]:** DEP Upgrades correcting definition.

**Expansion of Use:** The addition of one or more months to a use's operating season; ~~or an increase of floor area or ground area devoted to a particular use or~~ the use of more footprint of a structure or ground area devoted to a particular use.

**Comment [DDS534]:** DEP Upgrades correcting definition.

**Family:** One or more persons occupying a premises and living as a single housekeeping unit.

**Farm and Farm Related Ventures:** A home occupation of self-sufficiency characterized by subsistence or hobby agriculture with less than ten (10) acres tilled or used for grazing, gardening, or orchards, home preservation and preparation of foodstuffs, and it may or may not also involve the small scale production of textiles, clothing & leather products, and other craftwork for household use and sale; homesteading.

**Comment [DDS535]:** Consistent with the Porter Comprehensive Plan, definition in LUO omitted although language used.

**Farm Produce Stand:** The seasonal, incidental sale of fresh fruits, vegetables, nursery plants, and farm and farm related products which were produced on the premises or other land in the same ownership as the Farm Stand.

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

~~**Flashing Sign:** A sign whose illumination is not kept constant in intensity at all times when in use and which exhibits changes in light, color, light direction, and/or animation. Illuminated signs which indicate only the time and/or temperature are not considered as flashing signs.~~

**Comment [JT536]:** Redundant - waste of paper

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

## PORTER LAND USE ORDINANCE

**Flood Insurance Rate Map:** The official map on which the United State Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the Town, dated July 7, 2009. <https://msc.fema.gov/portal/search> (Website) December 4, 1979.

**Comment [DDS537]:** Outdated regulation, information access ADDED

**Flood Plain:** The lands adjacent to a body of water which have been or may be covered by the base flood.

**Floodway:** The channel of a river or other watercourse and adjacent land areas that shall be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one (1) foot in height.

**Floor Area, Gross:** ~~The sum, in square feet, of the floor areas of all portions of a building, enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.~~ The sum of the horizontal area of the floor(s) of a structure enclosed by exterior walls.

**Comment [DDS538]:** DEP Upgrades correcting definition.

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

**Comment [DDS539]:** DEP Upgrades.

~~**Forest Management Activities:** Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads. (See Section 1.3B)~~

**Comment [J540]:** January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

~~**Forest Stand:** A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit. (See Section 1.3B)~~

**Comment [J541]:** January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

**Forested Wetland:** A freshwater wetland dominated by woody vegetation that is six (6) meters (approximately twenty (20) feet) tall or taller.

**Foundation:** The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

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

1. Of ten or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

**Frontage, Shore:** The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

## PORTER LAND USE ORDINANCE

**Frontage, Street:** The street frontage shall be the length of the front lot line, along its boundary with a street. If the street right-of-way is curved, the length of the street frontage shall be the length of the arc of the curve. If a lot has more than one front line, at least one of the front lot lines shall meet the minimum street frontage required in [Article III Section 3.2](#).

**Functionally Water-dependent Uses:** Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can-not be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, ~~excluding recreational boat storage buildings~~, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, ~~retaining walls, shoreline structures necessary for erosion control purposes~~, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can-not reasonably be located or operated at an inland site, and uses that primarily provide general public access to inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

**Comment [DDS542]:** DEP Upgrades correcting existing definition.

**Fungicides:** Biocidal chemical compounds or biological organisms used to kill parasitic fungi or their spores. A fungistatic inhibits their growth.

**Comment [JT543]:** Missing definition.

**Garage and Yard Sale:** All general sales, open to the public, conducted from or on a residential premises for the purpose of disposing of personal property, meeting the Performance Standards in this Ordinance. ~~in Article V.~~

**Comment [DDS544]:** Limiting - removed Article V as requirements are Articles I, II, III, IV, and V.

**Garden Nursery, Garden Supply, and/or Grain and Feed Store:** A business, with either ~~in~~ a greenhouse or outdoor display space, where a combination of plants and/or produce, feed supplies, garden supplies, garden tools, trees, shrubs, and related items are sold ~~grown~~ for use.

**Comment [DDS545]:** Article I, II, III, and IV regulatory requirements apply - Coordination of these uses into a consolidated groups aligns with regional application.

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

**Grain and Feed Store:** A business which sells primarily grains and animal feed.

**Comment [DDS546]:** In regional communities, grain and feeds stores are coupled with nurseries and garden supplies to be economically viable in this era.

**Gray Water:** That portion of the waste water generated within a residential, commercial, or institutional facility that does not include discharges from toilets and urinals.

**Great Pond:** ~~See Water Body; Great Pond.~~

**Comment [J547]:** Redundant - standard definition and state statute descriptions are readily available, if needed.

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

**Harvest Area:** ~~The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest. (See Section 1.3B)~~

**Comment [J548]:** January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

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

## PORTER LAND USE ORDINANCE

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

Comment [DDS549]: DEP Upgrades.

**Hazardous Wastes:** A waste substance or material, in any physical state, designated hazardous by the Maine Board of Environmental Protection pursuant to Title 38, M.R.S.A. Ordinance 13. It does not include waste resulting from normal household home businesses, farm and farm related ventures, garage and yard sales, or the rental of a residential building and/or two (2) dwelling units within a residential building occupied by the owner, or agricultural activities.

Comment [PB550]: Clarification.

**Health Care Facility:** An out-patient establishment furnishing medical services to humans, including the offices of physicians, dentists, and other health practitioners, clinics, medical laboratories, outpatient surgery, and blood banks.

**Height of a structure:** The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, cupolas, antennas, roof mounted in-plane solar energy panels, and similar appurtenances that have no floor area. See Article III 3.3

Comment [DDS551]: Updated with newer systems (solar) and MEDEP regulation and state law on cupolas.

~~**High Impact Commercial:** A commercial use which does not meet the definition of "Low Impact Commercial".~~

~~**High Impact Industrial:** An industrial use which does not meet the definition of "Low Impact Industrial".~~

Comment [DDS552]: Incorrect. "Low" is an all-inclusive definition. "High" is triggered with only one of three existing criteria. Requires reviewing the definition of low impact and the criteria of high impact in Article V.

**Herbicides:** A substance that is toxic to plants and is used to destroy unwanted vegetation. Modern herbicides are often synthetic mimics of natural plant hormones which interfere with growth of the target plants.

Comment [JT553]: Missing definition.

**Holding Tank:** A closed, water-tight structure designed and used to receive and store waste water or septic tank effluent. A holding tank does not discharge waste water or septic tank effluent to surface or ground water or onto the surface of the ground. Holding tanks are designed and constructed to facilitate ultimate disposal of waste water at another site.

**Home Occupation:** An occupation or profession that does not employ more than (2) people who are unrelated, by blood or marriage, to the business owner, or who does not reside on the premises, an occupation or profession (excluding Medical, dental, and other health professional offices) which is carried on or in a dwelling unit or structure accessory to a dwelling unit and clearly incidental, is secondary to the use of the dwelling unit for residential purposes, and meets the Performance Standard of Article V this Ordinance - Permitted home occupations include, but are not necessarily limited to the following: artists, authors, architectural services, advertising, barber and beauty shops, consulting services, homesteading, dance studio, aerobic exercise, music lessons, tutoring and general educational instruction (limit two (2) students at a time), direct sales distribution, desktop publishing, data processing, computer programming and service, family day care (limit six (6) children), janitorial services, insurance sales or broker, interior design, mail order, real estate sales, broker, or appraiser, sales representative, and trade contractors (provided there is no outside storage of equipment, and no more than one (1) company vehicle stored)

Comment [DDS554]: Coordinated with "Home Occupation" definitions, DEP regulation definition, and the Comprehensive Plan. All uses remain are subject to the dimensional and performance requirements of the ordinance (Article I, II, III, IV).

**PORTER LAND USE ORDINANCE**

~~**Hospital:** An institution providing health services primarily for inpatients and medical or surgical care of the sick or injured, including, as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities, and staff offices.~~

**Comment [DDS555]:** redundant and inconsistent with LUO, exists in standard definitions, if needed.

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

**Individual Private Campsite:** An area of land which is not associated with a campground, but which is developed for repeated camping by only one (1) group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pads, parking areas, fireplaces, or tent platforms.

**Industrial:** ~~The utilization of lands, buildings, or structures, other than "home occupation", ", "farm and farm related ventures", "garage and yard sale" or the rental of a residential building and/or two (2) dwelling units within a residential building occupied by the owner, defined in this Article, the intent and result of which activity is the production of income by~~ The assembling, fabrication, finishing, manufacturing, packaging, or processing of goods or the extraction of minerals.

**Comment [DDS556]:** Coordination of the LUO with the Comprehensive Plan

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

**Comment [DDS557]:** Clarification - church, private school, and hospital are defined elsewhere - two meanings in LUO leading to confusion and interpretation issues and inefficient administration.

**Intersecting Street Lines** - An intersection is centerline point where two lines or streets cross.

**Comment [DDS558]:** Missing definition for relevant LUO interpretation

~~**Junkyard:** A place, not enclosed in a building, used to store:~~

- ~~1. Discarded, worn-out or junked plumbing, heating supplies, household appliances, and furniture;~~
- ~~2. Discarded, scrap and junked lumber; or~~
- ~~3. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material.~~

**Comment [DDS559]:** 90% of residents in town meet this definition, as written. This is unenforceable.

**Junkyard.** "Junkyard" means a yard, field or other outside area used to store, dismantle or otherwise handle:

A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture;

B. Unorganized, Discarded, scrap and junked lumber (not intended for fuel); and

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

**Comment [DDS560]:** State Definition - coordinated with Automobile Graveyard, Article V, and Article IV Refuse Disposal.

**NOTE:** See Automobile Graveyard for specific regulations regarding vehicles and vehicle electronics and parts.

**Comment [DDS561]:** Current Ordinance is not reasonable or enforceable, and is not coordinated with State Law

## PORTER LAND USE ORDINANCE

**Kennel.** "Kennel" means five (5) or more dogs kept in a single location under one ownership for breeding, hunting, show, field trials, sledding, training, competition or exhibition purposes. The sale or exchange of one litter of puppies or one cat or dog within a 12-month period alone does not constitute the operation of a kennel. A State License is required for a kennel.

**Comment [JT562]:** Missing definition - State Law

**Kennel (Boarding):** ~~Any place, building, tract of land, abode, enclosure, or vehicle which, for compensation: (1) provides food and shelter for animals for purposes not primarily related to medical care, or (2) engages in the breeding of animals for sale.~~ "Boarding kennel" means any place, building, tract of land or abode in or on which three (3) or more privately owned companion animals are kept at any one time for their owners in return for a fee or compensation and includes a facility where three (3) or more companion animals are kept for training purposes for compensation. Includes Pet Shops. A State license is required for a Boarding Kennel.

**Comment [JT563]:** Missing definition - State Law

**Kennel (Breeding):** ~~Any place, building, tract of land, abode, enclosure, or vehicle which, for compensation: Engages in the breeding and has more than five (5) female dogs or five (5) female cats, or sells more than sixteen (16) cats or dogs in a 12-month period. Breeding Kennel includes Pet Shops. A State License is required for a breeding kennel.~~

**Comment [JT564]:** Missing definition - State Law

~~**Lagoon:** An artificial enlargement of a water body, primarily by means of dredging and excavation.~~

**Comment [JT565]:** Not used in the ordinance - standard definitions and state references can be located, if required.

~~**Land Management Road:** A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads. (See Section 1.3B)~~

**Comment [J566]:** January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

**Laundromat:** An establishment where, for compensation, clothes and the like are washed with soap and water.

~~**Licensed Forester:** A forester licensed under 32 M.R.S.A. Chapter 76. (See Section 1.3B)~~

**Comment [J567]:** January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

**Lot:** An area of land in one (1) ownership, or one (1) leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the Oxford County Registry of Deeds.

**Lot Area:** The ~~total horizontal~~ area of land enclosed within the lot lines, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two (2) lots.

**Comment [DDS568]:** DEP regulations definition correcting existing definition.

**Lot, Corner:** A lot situated at a junction of two (2) public streets or situated on a curved street where the radius of the curve is thirty-five (35) feet or less and where the angle formed by the intersection of the tangent is one-hundred and five (105) degrees or less.~~A lot with at least two contiguous sides abutting upon a street.~~

**Comment [DDS569]:** Clarification of relevant LUO definition

**Lot, Coverage:** The percentage of the lot covered by buildings, structures, parking lots, and other non-vegetated surfaces.

## PORTER LAND USE ORDINANCE

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

**Lot Lines:** The lines bounding a lot defined below:

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

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

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

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

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

**Lot, Through:** Any interior lot having frontages on two (2) or more or less parallel streets, or between a street and a water body, or between two (2) waterbodies, as distinguished from a corner lot. All sides of through lots adjacent to streets and waterbodies are considered as frontage, and front setbacks shall be provided as required.

**Lot Width:** On lots which do not have frontage on a public road or a road that meets road standards in the **Subdivision Regulations** or Ordinance, the horizontal distance between the side lot lines, measured at the minimum setback line as established by this Ordinance.

**Low Impact Commercial Uses:** A commercial activity having fewer than five thousand (5,000) square feet of gross commercial floor area or impervious service, generating fewer than 200 car trips (or truck trip equivalent) or combination of car and truck trips ~~100 car trips and 20 truck trips per day;~~ and employing fewer than 6-20 full-time employees or equivalent thereof; and which generates no odor, glare, or electrical interference beyond the property lines; generates no toxic or hazardous wastes or products; and uses no toxic or hazardous materials or chemicals.

**Low Impact Industrial:** An industrial activity having fewer than five thousand (5,000) square feet of gross industrial floor area or impervious service; generating fewer than 200 car trips (or truck trip equivalent) or combination of car and truck trips ~~100 car trips and 20 truck trips per day;~~ employing fewer than 6-20 full-time employees or equivalent thereof; which generates no odor, glare, or electrical interference beyond the property lines; generates no toxic or hazardous wastes or products; uses no toxic or hazardous materials or chemicals in any process; and has no outdoor storage-

**Manufactured Housing Unit:** Mobile homes and modular homes.

**Mobile Home:** Structures which were constructed in a manufacturing facility, constructed on a permanent chassis, transportable in one or more sections, and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning (if provided), and electrical systems contained in the unit.

**Comment [DDS570]:** Taking - impedes ownership, usage for fencing, landscaping, etc..

**Comment [DDS571]:** These are not relevant based on the business models that exist today. Uncertainties and error can impact the effect of this regulation unless the Model used, Prediction of Future Demographics, Socio-economic data, Land Use Data, Trip Making Data, # of business vehicles-trucks, number of employees, size SF of buildings have been determined and validated.

**Comment [JM572]:** 200 trip generation is a recommended threshold, as town office, local grocer, local market, local restaurant are pulled in at 120. Comprehensive Plan.

**Comment [JM573]:** Federal classification of mid-size businesses, and addresses that Village Variety, Kezar Falls Market, Krista's, and the Porter Town Hall are all classified as high-impact commercial/industrial.

## PORTER LAND USE ORDINANCE

**Modular Home:** Structures which were constructed in a manufacturing facility, not constructed on a permanent chassis, transportable in one or more sections, and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning (if provided), and electrical systems contained in the unit.

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

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

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

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

**Minimum Lot Width:** The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**Mixed Use -** Any development to lots or buildings, that blend a combination of residential, commercial, cultural, institutional, industrial, or home business uses, where those functions are physically and functionally integrated, and that may provide pedestrian connections.

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

**Motel/Hotel/Inn:** A building or group of buildings in which over-night lodging (for a maximum stay of one week) is offered to the general public for compensation. A Motel/Hotel may contain such accessory services as newsstands, personal grooming facilities, and restaurants.

**Motorized Vehicle:** Any vehicle propelled by any means other than human beings or animals, including, but not limited to, antique automobiles, antique motorcycles, automobiles, buses, mopeds, motorcycles, motorized bicycles or tricycles, go carts, all-terrain vehicles, snowmobiles, pickup trucks, sports utility vehicles, stock race cars, street rods, taxicabs, tractors, trucks, self-balancing scooter or hoverboard, and truck tractors.

**Motorized Vehicle Racing Facility:** Any facility at which persons are allowed to operate motorized vehicles for the purpose of competing against other drivers of motorized vehicles in contests of speed or any other contest, regardless of whether the participants either give or receive any monetary consideration or other thing of value for participating in the contest.

**Comment [DDS574]:** DEP regulations definition and correction of existing definition.

**Comment [DDS575]:** LUO missing relevant definition.

**Comment [DDS576]:** Coordinated with the LUO

**Comment [DDS577]:** Coordinates with definition and metrics for Renting Rooms, and Boarding Houses in LUO.

**Comment [DDS578]:** Acknowledges new transports created over the past generation.



## PORTER LAND USE ORDINANCE

**Multi-Family Dwelling:** Any structure containing three (3) or more dwelling units for occupation by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

~~Native: Indigenous to the local forests.~~

**Neighborhood Grocery/Convenience Store:** A business of less than two thousand five hundred (2,500) square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies.

~~Neonicotinoid: The neonicotinoid family includes acetamiprid, clothianidin, imidacloprid, nitenpyram, nithiazine, thiacloprid and thiamethoxam, and is a neuro-active insecticides that may negatively affect local insect pollinators (bees, honey bees, solitary species, bumblebees), pollen wasps, ants, flies, bee flies, hoverflies, mosquitoes, lepidopterans, butterflies, moths, and flower beetles).~~

**Nonconforming condition:** Nonconforming lot, structure, or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

~~Nonconforming Lot of Record: A legally established lot shown on a plan or deed recorded prior to the effective date of this Ordinance or amendment which does not meet the area, frontage, width or depth a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the District in which it is located.~~

**Nonconforming Structure:** A structure that does not meet any one or more of the following dimensional requirements: setbacks, height, ~~and~~ lot coverage, or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Nonconforming Use:** Use of land, buildings, structures, premises, land or parts thereof ~~that which~~ is not allowed in the district in which it is ~~located-situated, or which does not meet the performance standards prescribed for it by this Ordinance,~~ but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Normal High Water Line:** That line which is apparent because of visible markings, changes in the character of soils due to prolonged action of the water, or changes in the vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

**Nursing Home:** A facility in which nursing care and medical services are performed for convalescent or other persons who are not in need of hospital care, but who do require, on a 24-hour basis, nursing care and related medical services. A nursing home is distinct from an assisted living facility, which is separately defined in this section.

**Official Business Directional Sign:** A sign erected and maintained in accordance with the Maine Traveler Information Services Act, 23 M.R.S.A. 1901, et. seq. which points the way to public accommodations and facilities or other commercial facilities.

**Comment [JT579]:** Not used in the ordinance - standard definitions and state references can be located, if required.

**Comment [DDS580]:** Additional consideration and discussion regarding uses utilizing neonicinoids.

**Comment [DDS581]:** DEP regulations definition and correction of existing definition.

**Comment [DDS582]:** DEP Upgrades to existing definition.

**Comment [DDS583]:** DEP Regulation-definition, and correction of existing definition.

## PORTER LAND USE ORDINANCE

**Orchard:** An intentional planting of trees, bushes, or shrubs that are maintained for food production, generally grown for subsistence and commercial sale.

Comment [JT584]: Missing definition

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

Comment [DDS585]: DEP Upgrades

**Park:** A non-commercial facility open to the public including, but not limited to, playgrounds, monuments, open space, athletic fields, picnic grounds, swimming pools, wildlife and nature preserves; along with necessary accessory facilities, rest rooms, bath houses and maintenance facilities. Not including commercial facilities.

Comment [JT586]: Not used in the ordinance - standard definitions and state references can be located, if required.

**Parking Space:** An area exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles, and meeting the Performance Standard in Article IV and V.

Comment [DDS587]: Coordination of LUO

**Patio:** An uncovered floor, usually made of concrete, brick, or other masonry material, which is not elevated above the surface of the ground.

**Pesticides** are substances that are meant to control pests, including weeds. The term pesticide includes all of the following: herbicide, insecticides (which may include insect growth regulators, termiticides, etc.) nematocide, molluscicide, piscicide, avicide, rodenticide, bactericide, insect repellent, animal repellent, antimicrobial, fungicide and disinfectant (antimicrobial). The most common of these are herbicides which account for approximately 80% of all pesticide use. [https://en.wikipedia.org/wiki/Pesticide\\_-\\_cite\\_note-3](https://en.wikipedia.org/wiki/Pesticide_-_cite_note-3)

Comment [PB588]: Added definition

**Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line or Within a Wetland:**

**Temporary:** Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

**Permanent:** Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

**Place of Worship:** A building or group of buildings used for the conduct of religious services; church.

Comment [JT589]: Consolidation and clarification.

**Principle Structure:** The structure in which the primary use of the lot is conducted. A structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

Comment [DDS590]: DEP regulation-definition, correcting existing definition.

**Principle Use:** The primary use to which the premises are devoted, and the main purpose for which the premises exist. A use other than one which is wholly incidental or accessory to another use on the same lot.

Comment [DDS591]: DEP regulations-definition, correcting existing definition.

**Private Club:** Any voluntary association of persons organized for social, religious, benevolent, literary, scientific, or political purposes; whose facilities, especially a clubhouse, are open to members and guests only and not to the general public; and not engaged in activities customarily carried on by a business or for pecuniary gain.

Comment [DDS592]: Covered under "Places of Worship" - Clarification & Correction to prevent misinterpretation.

## PORTER LAND USE ORDINANCE

~~**Public Building:** A public facility, other than a road, which members of the general public have occasion to visit, either regularly or occasionally, such as the town hall, library, fire station, park, or recreation facility.~~

**Comment [JT593]:** Not used in the ordinance - standard definitions and state references can be located, if required.

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

**Recent Flood-Plain Soils:** The following soil series as described and identified by the **National Cooperative Soil Survey**: Fryeburg, Hadley, Limerick, Lovewell, Medomak, Ondawa Alluvial, Cornish, Charles Podunk, Rumney, Saco Suncook, Sunday, Winooski

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

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

**Comment [DDS594]:** DEP Regulations- Definition, correcting existing definition.

**Replacement System:** A subsurface sewage disposal system intended to replace: (1) an existing subsurface wastewater disposal system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure; or (2) any existing overboard wastewater discharge.

~~**Rental Unit:** Any dwelling unit that is offered for rent, lease or hire or which is rented, leased or hired.~~

**Comment [DDS595]:** Missing definition.

~~**Residual Basal Area:** The average of the basal area of trees remaining on a harvested site. (See Section 1.3B)~~

**Comment [J596]:** January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

~~**Residual Stand:** A stand of trees remaining in the forest following timber harvesting and related activities. (See Section 1.3B)~~

**Comment [J597]:** January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

**Restaurant:** A place the primary use of which is to prepare and serve meals to the general public for compensation (examples: diner, bakery, pub, coffee/tea shoppe).

**Comment [DDS598]:** None of these are articulated in the LUO, but are needs and goals within the Comprehensive Plan.

~~**Reviewing Authority:** One having authority to review an application, decision, or Use. In accordance with the requirements of this Ordinance, its reference relates to either the CEO, Planning Board, Plumbing Inspector, Building Inspector, Fire Marshall, Appeals Board, or their designees.~~

**Comment [JT599]:** Missing definition found in other town design regulations (building/subdivision)

**Right-of-Way:** A private easement allowing passage by vehicles over another's property.

~~**Riprap:** Rocks, that are irregularly shaped, and at least six (6) inches in diameter, for the purpose of used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.~~

**Comment [DDS600]:** DEP Upgrades

~~**River:** See Water Body; River.~~

**Comment [DDS601]:** Redundant - standard definitions and state statute definitions are available, if needed.

## 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.

~~**Satellite Receiving Dish:** An antenna designed to receive signals from satellites.~~

**Comment [JT602]:** Not used in the ordinance - standard definitions and state references can be located, if required.

**Saw Mill:** A business in which logs are converted into planks, boards, chips, pellets, firewood, etc. by machinery.

**Comment [DDS603]:** Acknowledges there are less mills than a generation ago, and more of these products produced at remaining mills.

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

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

**Comment [DDS604]:** DEP Upgrades

**Service Drop:** Any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
  - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
  - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
  - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
  - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Setback:** The horizontal distance between a structure and the property boundary.

**Front:** The distance between the front lot line and the nearest part of the structure.

**Side:** The distance between the side lot line and the nearest part of the structure.

**Rear:** The distance between the rear lot line and the nearest part of the structure.

**Setback from Water:** The nearest horizontal distance from the normal high water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space, or other regulated object or area.

**Shore Frontage:** The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

## PORTER LAND USE ORDINANCE

**Shoreland Zone:** The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high water line of any great ponds or river; within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance of the normal high water line of a stream.

**Shoreline:** The normal high-water line, or upland edge of a freshwater wetland.

**Single Family Dwelling:** Any structure containing only one dwelling unit for occupation by not more than one family.

**Sign:** Any work, name, identification, description, emblem, insignia, symbol, banner, pennant, trade flag, or representation which is affixed to or painted or displayed upon a building, structure, post, or tree, and which is exposed in whole or in part, to public view and which is designed to convey a message relating to any object, product, place, activity, person, business, service, institution, facility, organization, entertainment, or amusement available either on the lot where the sign appears or in some other location.

**Sign, Flashing:** A sign whose illumination is not kept constant in intensity at all times when in use, and which exhibits changes in light, color, light direction, and/or animation. Illuminated signs which indicate the time and temperature are not considered as flashing signs.

**Sign Area:** the measure of the area within the lines connecting and completely enclosing the outermost points of a sign.

~~**Skid Road or Skid Trail:** A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation. (See Section 1.3B).~~

~~**Slash:** The residue, e.g., treetops and branches, left on the ground after a timber harvest. (See Section 1.3B)~~

~~**Small Homes:** For buildings constructed (not manufactured), every dwelling is to have at least one habitable room not less than 120 SF of gross floor area. All other habitable rooms, other than kitchens, shall be at least 70 SF, with the minimum horizontal dimension not less than 7'. Bathroom size shall be designed per plumbing code fixture clearance requirements. The building either needs to be built and secured to a foundation, frost wall or slab, or meet the State Manufactured Housing Act; also referred to as *Tiny Homes*, *Micro Homes*, *Mini Homes*, *THOWS*.~~

~~**Solar Collector:** A device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply.~~

**Solar Energy System:** A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used) and components for a distribution of transformed energy to the extent they cannot be used jointly with a conventional energy system. Passive solar energy systems are included in this definition but not to the extent that they fulfill other functions such as structural and recreational.

**Sound Pressure Level:** shall mean the level of sound measured in db units with a sound level meter which has a uniform ("flat") response over the band of frequencies measured.

**Comment [J605]:** January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

**Comment [J606]:** January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

**Comment [PB607]:** An introduction of state regulations dictating minimum habitant quarters. The town currently requires 600 SF Ground Floor minimum size of dwelling structure.

**Comment [JT608]:** Not used in the ordinance - standard definitions and state references can be located, if required.

## PORTER LAND USE ORDINANCE

**Specified Sexual Activities:** Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

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

~~**Stream – See Water Body, Stream:**~~

**Street:** A public or private way over which the public has an easement of travel (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), providing frontage to a lot, which meets the standards of Porter Subdivision Review Standards, or if legally nonconforming, is recorded on a plan of a subdivision at the Registry of Deeds, or has been accepted by the municipal legislative body.

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

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

**Substantial Improvement:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or for any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historical Places.

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

**Subdivision:** “Subdivision” as defined in M.R.S.A., Title 30-A, Section 4401, or:

Comment [DDS609]: DEP Upgrades

Comment [DDS610]: Redundant - standard definitions and state statute definitions are available, if needed.

Comment [PB611]: Coordination with the Building Code and subdivision regulations for the town.

Comment [DDS612]: DEP Upgrades

## PORTER LAND USE ORDINANCE

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 three (3) or more dwelling units within a 5-year period, the construction or placement of three (3) or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

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 dividings 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 2<sup>nd</sup> 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, except:

When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of forty (40) or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in **Title 38, section 435**, or a municipality’s shoreland zoning ordinance.

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.

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 can not 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

## PORTER LAND USE ORDINANCE

of this subchapter.

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot 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. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

H. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:

1. Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or
2. 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 January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph is not a recording in the books of records at the registry of deeds; it is a posting for public availability as tax maps are held and made available for public inspection.

I. 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.

**Subdivision, Major:** Any subdivision containing more than four (4) lots or dwelling units, or any subdivision containing a proposed street.

**Subdivision, Minor:** Any subdivision containing four (4) lots or dwelling units or less, and in which no street is proposed to be constructed.

**Subsurface Sewage Disposal System:** Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under **38 M.R.S.A. section 414**, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

**Comment [PB613]:** Relevant to include as all lot divisions are subdivisions and related to all land uses.



## PORTER LAND USE ORDINANCE

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

~~**Timber Harvesting:** The cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting and removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the Shoreland zone on a lot that has less than two (2) acres within the Shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 4.2.B, Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting. (See Section 1.3B)~~

**Comment [DDS614]:** DEP Upgrade

**Comment [J615]:** January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

**Comment [J616]:** January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

**Comment [DDS617]:** DEP Upgrades

**Comment [DDS618]:** Redundant - standard definitions and state statute definitions are available, if needed.

~~**Timber harvesting and related activities:** Timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting. (See Section 1.3B)~~

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

~~**Tributary Stream** — See **Water Body, Tributary Stream**~~

**Two-Family Dwelling:** Any structure containing only two (2) dwelling units for occupation by not more than two (2) families living independently of one another.

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

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

**Veterinary Hospital:** The use of a building or land for the diagnosis, care, and treatment of ailing or injured animals which may include overnight accommodations.

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

**VRBO: Vacation Rentals By Owner**

**Waste Water:** Any liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried wastes from the discharge of toilets, laundry tubs, washing machines, sinks, bath tubs, dishwashers, or other sources of water-carried wastes of human origin. This term specifically excludes industrial, hazardous, or toxic wastes and materials.

**Water Body:** Any great pond, river, or stream.

**Great Ponds:** Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of

## PORTER LAND USE ORDINANCE

thirty (30) acres except, for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

**River:** The free flowing body of water including its associated flood plain wetlands from that point at which it provides drainage from for a watershed of twenty-five (25) square miles to its mouth.

**Streams:** The free flowing body of water ~~as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15 minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the Shoreland area from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the nation hydrography dataset available from the United States Geological Survey on the website of the United States Georlogical Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.~~

Comment [DDS619]: DEP Upgrades

**Tributary Stream:** A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing water-borne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. NOTE: Water setback requirements apply to tributary streams within the shoreland zone.

Comment [DDS620]: DEP Upgrades

**Water Crossing:** Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but are not limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

~~**Water Oriented Uses:** A use which by its nature of operation requires a waterfront location.~~

Comment [JT621]: Not used in the ordinance - standard definitions and state references can be located, if required.

**Wetland:** A swamp, marsh, bog, or similar area which is:

1. Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding a river, stream, or brook, such that in a natural state the combined surface area is in excess of ten (10) acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances does support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

**Wetland Soils:** The following soils, as described and identified in the Soil Survey of Oxford County:  
Searsport muck - Vassalboro mucky peat - Vassalboro mucky peat - Wonsqueak mucky peat

**PORTER LAND USE ORDINANCE**

~~**Windfirm:** The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage. (See Section 1.3B)~~

**Wireless Communication Facility:** Any antenna, satellite dish, microwave dish or equipment used for receiving, relaying or transmitting radio, telephone, television, or any other electromagnetic based communication or data transfer, or any tower, pole or structure supporting such equipment.

**Woody Vegetation:** Live trees or woody, non-herbaceous shrubs.

**Comment [J622]:** January 1, 2013 rules adopted by the Bureau of Forestry under Title 12 section 8867B apply, in accordance with Title 38 M.R.S.A section 438-A, and 438-B. Repeal all ordinance references.

DRAFT