

# 2022 Recommended Land Use Ordinance Amendments

(Includes Jan 2022 - Apr 2022 PB, Appeals, SB, and Public Hearing updates)

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### 5.13 ~~Kennels and Veterinary Hospitals~~ Animal Care Facilities

#### ARTICLE 1. GENERAL PROVISIONS 1.1 Legal Authority.

This Ordinance is adopted pursuant to Home Rule Powers as provided for in:

~~- Title 14 M.R.S.A. § 6021 and § 6026-A (Rental Property),~~

~~- Title 17 M.R.S.A. § 2253, §2741, §2794, § 2802, § 2851, §2853, §2856 (Nuisances & Dangerous Buildings),~~

~~- Title 22 M.R.S.A. § 252, § 451 to 462, § 1313-A, §1313-B, § 1314 to §1330, and § 1561, § 1562, and §2608 (Local Health Officer),~~

#### Article II. NON-CONFORMING SITUATIONS - 2.3 Non-Conforming Structures.

~~3.D. Change of Use of a Non-Conforming Structure.~~ In determining that no greater adverse impact will occur, the ~~Planning Board~~ Reviewing Authority shall require written documentation from the applicant, regarding the probable effects on public health and safety, nuisances, 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.

#### ARTICLE III. DISTRICTS AND DIMENSIONAL REQUIREMENTS

##### 3.1 Designation of Districts

Footnotes to Table of Dimensional Standards to Table 3.2 Dimensional Standards.

H. 60 feet of fire separation is required between a dedicated detached accessory dwelling and any other dwelling. To apply for a side or rear setback variance of a structure solely intended for use as a detached accessory dwelling, a licensed surveyor in the State of Maine shall perform a survey of the property, and the survey is to be registered at the Oxford County Registry of Deeds and provided to the municipality.

##### 3.3 General Requirements

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

~~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.~~

P. Drone Dimensional use in relation to Building-Property 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 or the surrounding property treeline up to 83 feet, whichever is greater, 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, or property trees that have no floor area.

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

~~Effective March 18, 2006, n~~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.

**3.4 Uses Permitted:**

Type of Use <sup>1</sup>	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
<del>Parks</del>	-	<del>P</del>	-	-	-	-	-	-
Private recreational areas involving minimal structural development or facilities		P	P	P	P	<del>P</del>	P	P
<del>Kennel (Boarding or Breeding)</del>		-	-	-	-	-	-	<del>P</del>
<del>Veterinary Hospital/Animal Care Facilities</del>		<del>P</del>	<del>P</del>	<del>P</del>	-	-	-	P
Multi unit residential (>3)	Principal Structure & Uses	P	<del>P</del>	<del>P</del>	-	-	-	-
Remote or roofmount Solar systems (> <del>10KW</del> <u>16KW</u> Commercial/High Impact)	Principal Structure and Uses	P	P	P	P	P	P	P
Remote <del>ef or</del> roofmount Solar systems ( <u>≤ 16 KW</u> <del>&lt;10KW</del> residential or low-impact)		C	C	C	C	-	-	C

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

- Automobile Graveyards, Automobile Recycling Operation, Junkyards

**ARTICLE IV. PERFORMANCE STANDARDS - GENERAL REQUIREMENTS – 4.2 Standards.**

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

LAND USE	REQUIRED NUMBER OF SPACES
Parks	<del>1 per 200 sq.ft. of gross floor area of all structures, plus 1 for every 3 persons the facility is designed to accommodate</del>

## K. Landscape Buffers and Screening.

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
<b>Kennels (Boarding or Breeding) &amp; Veterinary Hospitals Animal Care Facilities</b>	P	Yes	NA	Yes	50	8 (min)	Wooded or Masonry	6	<b>Stockade Security fence AND a dense evergreen hedge</b>
<p><b>General Notes:</b> All pens or other shelters for animals, including animals, shall be set back at least two hundred (200) <u>in the Rural District and one hundred (100) feet in the Village District</u> from any lot line.</p>									
<b>Remote Solar Systems</b>	C or P	Yes	NA	Yes	50	<b>Height of Solar Array See General Notes</b>	NA	NA	Dense evergreen hedge, shrubs, trees, natural vegetation, landscaped earth berms, PR any combination
<p><b>General Notes:</b> <u>A fence surrounding remote solar arrays is recommended for children safety. A line-of-site buffer is required between the remote solar system and abutting property dwellings. A general vegetative buffer along all sides of a property where a remote solar system is established. (See Article IV Section 4.2.K.1)</u></p>									

## Q. Solar Consideration

- Remote solar systems require a **visual-general** vegetated buffer along **ALL** lot lines, excluding the entrance/curb cut to access and maintain the remote solar system. **See Article IV Section 4.2.K.1**
- Remote energy systems collectively greater than **10KW-16KW** are prohibited over wetlands, waterbodies, floodplains, natural historic districts, cemeteries, prime farmland, farmland of statewide important, **sand and gravel aquifers, existing forestry resources**, or locations of important plant and animal habitats identified by the Maine Department of Inland Fisheries and Wildlife or the town of Porter, or rare and irreplaceable natural areas, such as rare and exemplary natural communities and rare plant habitat as identified by the Maine Natural Areas Program. Previously developed, disturbed, degraded, or marginally productive portions of land validate siting, including but not limited to: rooftops, sand and gravel pits, areas with low utility for agricultural production, and brownfields such as landfills or former industrial sites.

**10.** The extent of a proposed solar energy project must be limited by design to the energy needs of the existing **or accessory** use on the property. Sale of energy to the power grid or others must be limited to incidental excess power generation. **This section applies to all Districts, including Shoreland Zoning and overlays.**

**11.** When a proposed solar energy project, collectively over 16 KW, contains a ridge line identified in the comprehensive plan as a visual resource to be protected, the plan shall restrict tree removal and prohibit remote solar array placements within 100 feet vertical distance of the ridge top.

## ARTICLE V. PERFORMANCE STANDARDS - SPECIFIC ACTIVITIES AND LAND USES

**5.13 ~~Breeding or Boarding Kennels and Veterinary Hospitals~~ Animal Care Facilities.**

A. Structures and pens for housing or containing the animals shall be located at least **two hundred (200) feet in the Rural District, and one hundred (100) feet in the Village Districts** from the nearest residence other than the owner's existing at the time of permit.

**H. The maximum allowable number of companion animals, livestock guard dogs, or a combination thereof, that are allowed for Animal Care Facilities is nine (9).**

**I. Animal Care Facilities requires a minimum of 200 square feet combined, dedicated per companion animal, livestock guard dogs, or a combination thereof, to assure adequate housing, exercise, and run areas.**

**5.14 Mineral Exploration and Extraction. D. Performance Standards.**

**17. When a proposed metallic mineral extraction site contains a ridge line identified in the comprehensive plan as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within 100 feet vertical distance of the ridge top.**

**18. Open-pit mines of more than three (3) acres or mines that would require treatment of toxic wastewater in perpetuity or ponds storing wet mine wastes specific to metallic minerals are prohibited within the municipality.**

**5.17 Modular Housing and Mobile Homes.**

A. Modular homes and mobile homes, whether single- or double-wide, shall meet all of the following requirements:

5. No permanent additions other than units similar in construction to the original unit; ~~and,~~

~~6.~~ Any prior dwelling being replaced is to be properly removed or disposed of; ~~and~~

**7. Units manufactured prior to the enactment of federal HUD codes (June 15, 1976) require an approved TPI (Third-Party-Inspection) report be provided to the municipality prior to local approvals to bring the unit into the Town.**

**6-8. Units manufactured prior to the enactment of federal HUD codes (June 15, 1976) that existed in the municipality prior to August 4, 1988 require an approved TPI (Third-Party-Inspection) report be provided to the municipality prior to local approvals for relocating the unit within the Town.**

**5.23 Special and/or Hazardous Waste Facilities. C. Performance Standards.**

If the Town does not operate the site, the site ~~may not be operated~~ **shall not be approved** unless the Planning Board is furnished by the owner and/or operator with:

5. The Town of Porter will be named specifically as a written obligee and insured under these submissions, ~~and~~ **the submissions must be acceptable to the municipal officers.**

**6. PFAS testing results of imported waste must not exceed a combined 20 ppt of PFBS, PFHxS, PFOS, PFHxA, PFOA, PFNA, or PFDA, and be provided to the municipality 30 days prior to depositing the material.**

**7. RCRA-8 monitored metals testing results of imported waste must not exceed EPA regulated levels, and be provided to the municipality 30 days prior to depositing materials.**

**ARTICLE VI. ADMINISTRATION, ENFORCEMENT AND PENALTIES**

**6.1 Administering Bodies and Agents**

**D. Local Health Officer. A Local Health Officer created in accordance with Title 22, Chapter 153.**

## 6.5 Land Uses and Activities Not Requiring a Land Use or Building Permit Fee.

8. Replacement or repair of house shell (e.g. siding, windows, safe egress, and roofing shingles).

12. No permit shall be required for interior repairs or maintenance not involving structural changes. Per the State of Maine, adding a sillcock, water treatment system, garbage disposal, or water heater, or the replacement of a water heater requires an HHE-211 application (internal plumbing permit).

## 6.12 Certificate of Occupancy Required.

A. A certificate of occupancy issued by the CEO, if required, is to be provided in advance of the use or occupancy of:

4. Change in property ownership of an apartment rental.

C. To ensure the continued health and safety of rental dwelling units (*apartments, multi-family, bed & breakfast, boarding arrangements, hotels, motels, inns*), the Town ~~shall~~ may conduct periodic inspections of rental units for which the ~~Code Enforcement Officer~~ Reviewing Authority 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~~ Reviewing Authority finds that the conditions are satisfactorily resolved.

## Article VII. BOARD OF APPEALS.

### 7.1 Establishment and Organization.

A. A Board of Appeals is hereby established. It consists of **five (5) full** and up to three (3) associate 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.

### 7.6 Appeal Procedure, subsection B - Notification:

2. At least ~~ten (10)~~ seven (7) days prior to the date set for hearing, the Board of Appeals shall also notify by 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; and
  - c. The Planning Board, the CEO, and any other party of record shall also be notified in writing.

## Article VIII DEFINITIONS AND WORD USAGE - Section 8.2 - Definitions

Animal care facility. "Animal care facility" means any person that provides care, sustenance, housing, maintenance or other necessary care of an animal and includes, but is not limited to, veterinarians' offices, boarding kennels, equine facilities, animal grooming facilities, animal shelters and animal day care facilities.

**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. The use may be classified as an automobile graveyard or automobile recycling business if statutory definitions are met.

Automobile recycling business (Title 30-A Section 3752 Subsection 1-A): "Automobile recycling business" means the business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.

Private Recreational Areas involving minimal structural development of facilities: The use of land for parks, gardens, playgrounds, or other grounds for recreation which are not normally open to the public without charge, excluding individual private campsites or campgrounds.

PFAS: PFAS are a large, complex, and ever-expanding group of manufactured chemicals that are widely used to make various types of everyday products. For example, they keep food from sticking to cookware, make clothes and carpets resistant to stains, and create firefighting foam that is more effective. PFAS are used in industries such as aerospace, automotive, construction, electronics, and military. These chemicals were not known to degrade in the environment, remain in the environment for an unknown amount of time and may take years to leave the body, and different PFAS chemicals may enter the food chain in various ways, gradually accumulating and remaining in a body over time, a process due to more intake than excretion of the chemicals. PFBS, PFHxS, PFOS, PFHxA, PFOA, PFNA, or PFDA PFAS designated chemicals are a potential hazard to immune system function in humans.

RCRA-8 monitored metals: These eight metals include: arsenic, barium, cadmium, chromium, lead, mercury, selenium and silver