

Addenda and Clarifications from 2.20.19 Public Hearing - Land Use Ordinance Update (Spring 2019 Draft #1)

Amendments following the 2.20.19 Review, By Article:

- **I Section 1.1** – Statute references were updated to reflect Title 38 Section 445 to 449 (MEDEP comments upon review of draft 2.22.19)
- **I Section 1.2** – Ordinance purpose was expanded to consider the retention and restoration of old growth (Comp Plan and Public Input)
- **I** – Durations were designated to reflect either calendar days or business days, to afford fair understanding between applicant, administrator, and enforcer, and to right-size durations with municipal scale and capabilities.

- **III Section 1.14 A** - Centerline of ROW is the basis of evaluating this section. (Public Hearing Input 2.20.19)
- **III Section 3.1 D** – Centerline of ROW is the basis of evaluating this section. (Public Hearing Input 2.20.19)
- **III Section 3.2:** General Development minimum lot area reverted back to existing standard (88,000 SF) in the event housing is implemented and not industrial or commercial uses, as housing use is still permitted per Article 3.4 (Correction)
- **III Section 3.2 Footnote D** – Coordinated with Article VI Section 4.2N to differentiate use scale

- **IV Section 4.2 A.15.a** – Reference to minimum MEDOT Traffic Design Standards for curb terminations, medians, and raised island has been added to the Draft Proposal
- **IV Section 4.2 N** - Coordinated with Article III Section 3.2 Footnote D to differentiate use scale
- **IV Section 4.2N.4** – Ditching and cross slopes were added as an option to reduce paving
- **IV Section 4.2 O.7** – Clarification of Deed Covenant only if battery waste load is present and intended to remain on premises. (Public Hearing Input 2.20.19)
- **IV Section 4.2 Q.d.2** – Clarified compliance needs with the NRPA and MEDEP, as well as coordination with the Conservation Commission per Title 30-A MSRA Chapter 137 (Public Hearing Input 2.20.19)
- **IV Section 4.2 U.1.g** – Prescriptive and unenforceable - Deleted (Public Hearing Input 2.20.19)

- **V Section 5.17 – H.2** – Cross-referenced with definitions in Article VIII Section 8.2 (Public Hearing Input 2.20.19)
- **V Section 5.18.A** – (#6) was added to include that all new mobile and modular homes be fully skirted upon installation.
- **V Section 5.18.B** – (#5) was added to include that all used and relocated mobile and modular homes be fully skirted upon installation.
- **V** – Durations were designated to reflect either calendar days or business days, to afford fair understanding between applicant, administrator, and enforcer, and to right-size durations with municipal scale and capabilities.
- **V** – The specific requirement of providing a project schedule was added to 5.3, 5.11, 5.12, 5.17, 5.19, 5.20, 5.24, and 5.27.

- **VI Section 6.3B** – Clarification that existing replacement culverts require a permit, but not a fee, and that new curbut culverts require a permit/fee.

- **VI Section 6.5.4.d** – Clarification of doorstep overhang roofs (not porticos) (Public Hearing Input 2.20.19)
- **VI Section 6.7E** – Clarification and documentation for reasons of denial. (Public Hearing Input 2.20.19)
- **VI Section 6.8.H.5** – Clarification of the purpose of site walks and procedure (Planning Board)

- **VI Section 6.8J** – Clarification and documentation for reasons of denial. (Public Hearing Input 2.20.19)
- **VI Section 6.10** – Clarification that projects not completed within 24 months of permit issuance will require filing for a new permit.
- **VI Section 6.11** – Clarification of ordinances referenced (Subdivision Regulations, and Building Code) - (Public Hearing Input 2.20.19)
- **VI Section 8.6 C, D, and G:** Notifications adjusted to a more competent and reasonable duration (Planning Board)
- **VI** – Durations were designated to reflect either calendar days or business days, to afford fair understanding between applicant, administrator, and enforcer, and to right-size durations with municipal scale and capabilities.

- **VII Section 7.2C** – Clarification of notification requirements were provided (Public Hearing Input 2.20.19)
- **VII Section 7.6.A.3** - Clarification of who is responsible to review appeals (Public Hearing Input 2.20.19)
- **VII Section 7.6A.6** – If an appellate or denovo appeal is granted (not a variance), fees will be refunded to the appellant.
- **VII** – Durations were updated to reflect either calendar days or business days, to afford fair understanding between applicant, administrator, and enforcer, and to right-size durations with municipal scale and capabilities.

- **VIII Section 8.2 Definitions** - More flexibility provided for farmstands. (Planning Board)
- **VIII Section 8.2 Definitions** - Low impact lower boundary was removed to allow effective review of use and impact. (Correction)
- **VIII Section 8.2 Definitions** - Home Occupation employment was raised to 3 employees from 2. (Planning Board)
- **VIII Section 8.2 Definitions** – Right-of-Way definition clarified to account for multiple situations (Clarification – Public Hearing Input 2.20.19)
- **VIII Section 8.2 Definitions** – Market Value definition corrected (bother = both of who are) – (Public Hearing Input 2.20.19)
- **VIII Section 8.2 Definitions** – River definition updated to state standards (was not legal) – (MEDEP comments upon review of draft 2.22.19)
- **VIII Section 8.2 Definitions** – Stream definition updated to state standards (was not legal) – (MEDEP comments upon review of draft 2.22.19)
- **VIII Section 8.2 Definitions** – Tributary definition updated to state standards (was not legal) – (MEDEP comments upon review of draft 2.22.19)
- **VIII Section 8.2 Definitions** – Principle Use and Structure were corrected to Princpal Use and Structure.
- **VIII Section 8.2 Definitions** – Durations were updated to reflect either calendar days or business days, to afford fair understanding between applicant, administrator, and enforcer, and to right-size durations with municipal scale and capabilities.

A more extensive overview of the type of changes in the 2.20.19 Proposed Draft, by Article:

Index – The Index was re-organized to establish a more effective and efficient process for the applicant, administrators, and enforcers. It adds NEW MEDEP regulations, consolidates similar uses within Article IV and V, and removes redundant Article V requirements that are already covered in Article IV.

Article I – The purpose now accommodates goals of the Comprehensive Plan, the document was amended to introduce 2015 MEDEP Chapter 1000 regulations and to correct discrepancies between the ordinance and pre-existing DEP regulations. It enhances individual rights in interpreting the validity of regulations and right-of-ways and introduces missing time limits on municipal responsibilities. Business and calendar day differentiation was provided to be right-sized for municipal capability and size and to allow fair interpretation by townspeople, applicant, administrator, and enforcer.

Article II – Few dynamic changes in the life situation of people (*ie death, sickness, divorce, relocation, job change, tragedy, etc.*) can be reasonably resolved in one year. The time limit for continuing uses outside of Shoreland was increased, as the current regulation was indifferent to the human condition and our approved Comprehensive Plan goal to revitalize depressed properties. 2015 Chapter 1000 MEDEP regulations were cross-referenced with this document, and the ordinance was upgraded to current state standards. The state now requires the evaluation of conformance in Shoreland to be based on footprint calculations rather than square foot and volume calculations (*this will save municipalities and property owners time and money and a net overall improvement in the regulations and environmental protections*) and this was reflected in the proposed amendment. The board opted to exclude GPA classification of water bodies in the draft, which is more strict than the state requirements in terms of protecting water quality (*the same as before*). Depending on the action, multiple municipal officials and entities have responsibilities and authorities – this section was amended throughout to reflect the omitted entities. The draft proposal supports the merging of small non-conforming lots which aligns with the Comprehensive Plan and State Law. Language was introduced to require town notification by property owners regarding the intention or retention of cellarholes/foundations following relocation (*this salvages potential historically notable elements as well as minimizes ecological impacts*).

Article III – 3.2 Dimensional standards were re-formatted for easier viewing, clarified to remove definition confusion, needed information that was omitted from the current ordinance was inserted, and dimensions were coordinated to work effectively with comprehensive planning, state laws regarding right of ways, and district zoning. The amendments promote the retention and restoration of historically notable buildings in the villages, standardize use setbacks to account for corporate scale (*a problem in society*), corrects language not in compliance with MEDEP regulations regarding ADA, reorganizes and consolidates elements of

other sections into and out of the Article III General Notes based on applicability, reader visibility, and relevance. Increased awareness of requirements for farmstands, specific uses, pools, and road construction, and drone usage safety and rights language were introduced in addition to the MEDEP language and state statute allowing cupolas to be built. Language describing finishing exterior siding and roofing of structures within a set time period was also added. Section 3.4 (*Uses*) were formatted for easier reading, administration, and enforcement, and coordinated with the comprehensive plan, other requirements within this ordinance, MEDEP regulations, and other codes (*Subdivision and Building*). Remote Solar Systems were added to 3.4 (*Uses*) as they were not previously permitted, and new junkyards and automobile graveyards are prohibited within 500 feet of the high waterline of great ponds or rivers and streams that feed these waterbodies.

Article IV – The draft acknowledges goals of the Comprehensive Plan, coordinates road design standards with the subdivision regulations (*and among other previously conflicting guidance in the ordinance itself*), differentiates road standards by use “scale” to promote cottage industries and home businesses, references appropriate state standards (*previously omitted*), and reduces wasted resources on paving which infringe on property owner rights and cost the town more funds to manage town ways. MEDEP 2015 Chapter 1000 regulatory upgrades were introduced, requirements for Shoreland and non-shoreland were differentiated, tables were reformatted for easier reading and missing or conflicting information in the tables was added, municipal obligations were clarified, the MEDEP sound regulations were implemented to replace our sound regulations which are not legally enforceable at this time, differentiates parking standards by use “scale” to promote cottage industries and home businesses, refuse disposal clarifies a poorly written state law to articulate multiple conditions, regulatory coordination in road construction was clarified (*NRPA/MEDEP/Conservation Commission*) to protect landowner rights, waste abandonment risks were articulated, the Soil & Water Conservation Districts role is more visible, definitions regarding neonicotinoids, pesticides, herbicides, and fungicides were introduced into the discussion regarding water quality, updated regulations and links were provided for water quality, and Preservation of Historic and Archaeological Resources introduces more communication under certain conditions.

Article V – Consolidates performance standards within Article IV and V, removed redundant Article V requirements and uses that are already covered in Article IV, and differentiated and defined scale of uses (*ex. animal husbandry, agriculture, kennels, lodging, high impact*). Laws were updated to current, links were provided to useful resources, corrections were made to comply with MEDEP regulations, and missing requirements were added. Engineering and State approvals were right-sized for high-impact uses, screening and buffering requirements, more town compatible signage, as well as road construction standards (*subdivision regulations design standards*) were emphasized, supporting guidance for agriculture was introduced, airbnb/VRBO/rental/animal responsibility of the property owner was re-iterated, risk mitigation was added to protect the townspeople (*bonding, insurances, equity, abandonment protections, location siting on or near aquifers and historically notable locations, impervious percentages, density, security of cellular towers, collocation risks*), trip modeling standards were updated,

cluster developments is proposed to be relocated back to the original regulation (*Subdivisions*) to reduce legal risks to the town, campsite durations inside and outside of Shoreland were clarified, excavation standards were coordinated with town regulations and current era means and methods of sedimentation control and sloping (*outside of Shoreland*), regulations were coordinated with state law and updated to current 2015 Chapter 1000 MEDEP regulations, gender specific references were removed (*Select Board vs. Selectmen*), and business and calendar day differentiation was provided to be right-sized for municipal capability and size and fair interpretation by applicant, administrator, and enforcer.

Article VI – Gender specific references were removed (*Select Board vs. Selectmen*), clarification that the ordinance is for all residents (*not just use applicants*) was emphasized, email and alternative mailings as communication mediums (*to reduce taxpayer costs and improve speed and efficiency*) was acknowledged, Certificate of Occupancy requirements were clarified, restores individual due process rights, acknowledges that a Comprehensive Plan exists, provides a MEDEP regulatory path for shoreland single family residential use along route 25 from Kezar Falls to Porter Village via the Planning Board review, improves regulatory reporting by municipal officers and boards that is to be provided to applicants, property owners, and internally, administration processing times for notification were right-sized for the town's size and capabilities (*7 days vs. 10 days*), clarifies inactive applications to include non-compliance (*failing to produce the necessary information*), more effectively utilizes municipal officer and volunteer skillsets and expertise (*rather than subcontracting out, which costs tax dollars*), business and calendar day differentiation was provided to be right-sized for municipal capability and size and allow fair interpretation by townspeople, applicants, administrators, and enforcers. Plan requirements were clarified and simplified (*more stringent requirements based on specific use and impacts were relocated to Article V*), MEDEP certification requirements of excavators in Shoreland were introduced (*2015 Chapter 1000 Regulations*), activities that do not require a land use fee were consolidated and clarified, and links and applicability of SRCC oversight (*when required*) was provided (*lacking in prior ordinance and permitting documents*).

Article VII – Restores individual's rights upon redress of grievance if an appeal ruling is found to be in favor of the appellant. Administration processing time for an appeal was right-sized for the town's size and capabilities. Administrative flow was improved. The types of appeal reviews and requirements of each were clarified (*appellate vs. de novo*). A 10 day notification period was introduced for more reasonable FOIA rights of the individual (*freedom of access act to information*). Business and calendar day differentiation was provided to be right-sized for municipal capability and size and allow fair interpretation by townspeople, applicants, administrators, and enforcers.

Article VIII – Unused and redundant definitions were removed to provide space, simplify the size and scale of the document, and reduce confusion. New MEDEP definitions were added or removed per 2015 MEDEP Chapter 1000 regulations. Illegal definitions per MEDEP comments on 2.22.19 following review of the draft were amended. Definitions were clarified to differentiate sizes and types of uses that were previously very broad and indifferent to

Comprehensive Planning Goals, or that conflicted with other definitions of similar uses (*Commercial Use, Low Impact Commercial-Industrial, Industrial, Kennels, Cabinetry & Woodworking Shop, Home Occupation, Farm and Farm Related Ventures, Agriculture, Animal Husbandry, Farmstands, Daycare, etc.*). Missing or incomplete definitions were added for models and elements not acknowledged by the existing ordinance (*airbnb, vrbo, rental unit, apartment, small homes, mixed use, automobile hobbyist, automobile graveyard, pesticides, herbicides, neonicotinoids, fungicides, orchards, farm and farm related ventures, and comprehensive plan*). The *subdivision, street, structure, right-of-way definitions, intersecting street lines, and review authority* conflicting definitions were unified with other town regulations (code and subdivision regs) as well as with State Law. The *Junkyard* definition was clarified to effectively mitigate a very poorly crafted and problematic state definition. *Scooters and hoverboards* were added to the motorized vehicle definition, although the town roads do not yet accommodate these devices without risking life and limb. Website links were added for Flood Insurance Maps. *Mentoring and Vocational* education was added to the *Education Facility* definition (*as these are needed in Maine*). Trade contractors were added to acknowledge a significant and important need in this state. More effective language was implemented to protect individual rights and to be able to properly locate definitions (*if they become needed and are not currently listed in the ordinance*). Business and calendar day differentiation was provided to be right-sized for municipal capability and size and to allow fair interpretation by townspeople, applicants, administrators, and enforcers.