

OVERVIEW of the September 16, 2020 proposed amendments to the Town of Porter Land Use Ordinance:

The Porter Planning Board and Code Enforcement Officer/Licensed Plumbing Inspector have been evaluating roughly 20% of the current local ordinance and providing recommendations since November of 2019.

Major Areas of Concentration

- 1.) This work completes the phasing out of the local BOCA building code and coordinates rules with the **Maine State Fire Marshall's Office** (*Porter utilizes State Laws and MUBEC*)
- 2.) These amendments to the October 7, 2020 edition of the local land use ordinance meet the standards acceptable to the **Maine Department of Environmental Protection**.
- 3.) This work coordinates local road design standards with current Maine Department of Transportation regulations and consolidates all design guidelines related to roads and access into a single reference point: *Article 10 Section 10.15 of the Subdivision Regulations (Traffic Conditions & Streets)*.
- 4.) The proposed amendments also correct outdated and inconsistent sanitary, junkyard/auto graveyard, driveway, refuse disposal, fuel storage, and health & safety standards.

Reasons for these Amendments

- a.) Missing language and definition regarding the permitting and regulatory process has caused other past problems within the Town, including, but not limited to: *Prohibited land uses, junk, littering, dangerous buildings, illegal structures, setback infringements, blight, criminal activity, health & safety issues, and environmental violations*. This proposal amendment works to more clearly convey the process to assist in reducing these issues. (e.g. improved notification processes, clarifying the existence of a Local Health Officer, more reasonable right-of-way determinations, enhanced rental and boarding health & safety inspections, clarified driveway, relocation, demolition, and utility installation & relocation standards)

NOTE:

- *Land Use, Driveway, Building Permits, and notifying the Town of the intent to develop have been and continue to be required, by law (Article VI Section 6.3 & 6.9).*
 - *Internal Plumbing and Subsurface Wastewater Disposal permitting and inspections are required, by law.*
 - *The Town uses permits for administering and enforcing the ordinance, keeping track of development, reducing health & safety risks, and comprehensive long-term planning.*
 - *The Town no longer uses the 8 ½ "x5 ½ " seven-step inspection placard, but landowners or contractors are required to notify the CEO/LPI prior to the foundation & footings, in-wall rough-in, and finishing stages of the development in order to inspect, help answer questions, and provide recommendations and guidance regarding MUBEC.*
 - *All contractors are to build per MUBEC in the Town of Porter, and sellers proof of a 3rd party inspection may be required by financing and insurance shareholders in the property.*
- c.) **To clarify or correct conflicts identified in the ordinance with current Maine Department of Environmental Protection regulations.** (e.g. *allowable uses, solar setbacks and definition, Shoreland certified excavators, pre and post photos in Shoreland, earthwork regulations, etc.*)
 - d.) **To continue an effort to improve affordable housing conditions in the region that support aging in place, upward mobility, and economic recovery/resiliency** (e.g. *reduced fees, reduced dimensional standards in the village districts, simplified review of 3-family dwelling units, accessory dwelling units in the rural district, extended duration to restore a*

non-conforming structure due to fire or a significant life change, added variance appeal conditions for single family dwellings and disabilities, simplified earthwork regulations coordinated with State Law).

e.) **To continue an effort to improve food security and resiliency in the region, given the limited and strained food supply chains in this country (e.g. expanded greenhouse, assembled hoop storage enclosure, farmstand, and renovation fee exemptions, clarified animal density by major districts)**

f.) **To consolidate and update unorganized, inconsistent, and outdated road access standards into one uniform and manageable regulation (Moved sections 4.2 A-5, 6, 9, 12.a.1, 12.a.4, 5.6.B.6, 5.7.E, 5.10.G, 5.11.H, 5.16.F.2, 6.16.F.4, 5.16.F.6, 5.18.C.4, and 5.22.B into Section 10.15 of the Subdivision Regulations).**

g.) **To continue annual maintenance of our town regulations (*as is required by law*), addressing errors, acknowledging new laws, removing conflicts, and making the corrections needed in order to assure it follows the community's long term comprehensive plan. (e.g. correcting outdated and inconsistent sanitary, junkyard/auto graveyard, road, driveway, refuse disposal, fuel storage, health & safety, and land use standards)**

NOTE:

- At a minimum, our local ordinances should be re-evaluated *bi-annually* as the State legislative session introduces roughly a thousand new or amended laws during that same period, many affecting municipalities.
- At a minimum, our local ordinances should be evaluated when there is a dynamic socio-economic change that will negatively affect the health of the community (e.g. loss of the Kezar Falls Woolen Mill, loss of over 40 local small businesses, substantive international trade agreements, multiple economic recessions, pandemic, etc.)
- The Local Code Enforcer is required by law to notify the Planning Board and Town Officers whenever an ordinance is found to be ineffectual, unenforceable, inconsistent, outdated, inadequate, or superseded.
- These actions have not consistently occurred over the past 30 years.

The recommended amendments (*below*) work to encourage the overall economic health of the community and lower individual cost of-living burdens without compromising Porter's comprehensive planning goals:

Table of Contents proposed amendments:

- Automobile "recycling" added to existing Auto Graveyard & Junkyard title
- Roads and Driveway Section that is specific to Shoreland was clarified
- Article VII Sections 6.4, 6.5, 6.10, and 6.11 permitting and authorizations were coordinated

Article I proposed amendments: None

Article II proposed amendments:

- For properties outside of Shoreland, the opportunity to reconstruct or replace a non-conforming structure due to a fire or involuntary action is increased from 12 months to 18 months, to support current and projected socioeconomic conditions, aging in place, and upward mobility.

Article III proposed amendments: Right-of-way setback measurement was changed to the centerline of ROW, rather than the outer boundary of an assumed ROW.

- Village lot frontage was reduced by 30% to account for the October 7, 2019 30% reduction in minimum lot area. This accounts for block length and provides more proportionate and attainable lot sizes in the villages. This complements local density goals.
- An efficiency accessory dwelling provision is proposed in the rural district, requiring 2.5 acres and 450 feet of road frontage for a 1 bed, 1 person accessory dwelling less than 400 SF with a compliant septic system or adequate primary structure capacity. This supports current and projected socioeconomic conditions, aging in place, and upward mobility, while maintaining density goals.

- The permitting requirements of Article VI were clarified in the Section 3.4 Uses Permitted Section to describe building, renovation, expansion, demolition, relocation of structures, as well review of 3-family dwelling units.
- Minimum requirements for swimming pools were added.
- Regarding height, the reference to building was amended to structure which is more broadly defined in State Law that would include monopoles and turbines, current era installations.
- Accessory structure and Farmstand sizes not requiring a local permitting fee was increased from 100 SF to 120 SF. The current size (*as the more common size in the region is 120 SF*) would defeat the intent of reducing unnecessary overhead on the town or cost-of-living burdens on the individual. CEO inspections and approvals still apply.
- The Maine DEP notified the Town of Porter that eight (8) uses were improperly allowed in Shoreland Protection areas. These were removed, and wireless communication facilities, communication towers, and antennas were moved to a more appropriate district, the General Development District.

Article IV proposed amendments:

- A minor clarification and restoring an omission was proposed in the “applicability and purpose” section, to acknowledge the goal of improving operating efficiency of local government and retaining and restoring forestry.
- The existing relationship between new driveways and new land use or building construction permitting was clarified.
- The existing upgraded design requirements were clarified for driveways exceeding 500 feet.
- The existing MEDOT and Local driveway permitting requirements was clarified.
- Notification of the Road Commissioner and CEO was reaffirmed whenever paving a driveway within a ROW, so that the Town can evaluate drainage and culverts.
- Parking considerations were proposed for accessory dwellings and “recycling” was added to the auto graveyard/junkyard title.
- Article IV Section 4.2 C was often confused with Section A, and was clarified to be specific to roads and driveways in Shoreland ONLY and moved 4.2.C.1 and 4.2.C.1a to the more relevant section – 4.2A., 4.2 B and 4.2.A.13 road design standards were removed and refer to Road design standards in Article 10 of the Subdivision Regulations, for a single point of reference which reduces document management issues and confusion.
- A 2 hour overlap error was corrected for the nighttime hourly noise limit.
- Refuse Disposal acknowledges added definition (Litter) and the updated specific use of Automobile Graveyard and Junkyard which includes automobile recycling. Property owner written consent is required for littering and the littering cannot create a public nuisance or violate any state law or local rule. Motor Vehicles, Recreational Vehicles, and Semi-trailers were further defined.
- Bulk fuel storage regulations were updated to current NFPA regulations, recognize more commonly uses tank sizes, and afford a more thorough evaluation of first responder and water resources, surrounding uses, risk metrics, and local comprehensive planning.
- Minimum buffering and screening protection requirements for swimming pools were added.
- Buffering and screening protection requirements for Automobile Graveyards were coordinated with State Law and the title was corrected to include Automobile Junkyards and Automobile Recycling.
- Buffering for mobile home park interior lot distances was clarified, front lotline exemptions were added for 3-family dwellings and removed from minor and major subdivisions (*4 or more*).
- Multi-Family Dwelling (three) and Minor and Major subdivision screening and buffering requirements were amended to acknowledge village density goals, the retention of historically notable buildings, housing needs, and additional subdivision screening and buffering needs, as well as standardizing the depth of buffer for these similar uses.
- Tire Storage and Disposal screening and buffering was amended to acknowledge the location of private wells, and to place a 1000 foot restriction from the Ossipee River impoundment that services Porter

residents.

- Section 4.2 H Sanitary Standards removed out-dated and inaccurate plumbing regulations and clarified what documents related to plumbing are to be presented to the Planning Board.
- The relationship of the land use ordinance with subdivision review process was highlighted, and the potential need for a State General Construction Permit for unique or large uses.
- A correction was made to the overall duration of temporary event special commercial sales signage, increased from 10 to 12 days total.
- The Maine DEP notified the Town of Porter that Porter Land Use Solar Considerations were not as stringent as State Regulations and the sections were amended to correct this.
- A State Law passed in 2019 now requires photos before development and photos within 20 days of completion of any development in Shoreland. This was added to the appropriate sections.

Article V proposed amendments:

- The Article IV intent of the regulations were carried over to Article V for clarification.
- Animal Unit Equivalent (density per acre) recommendations were specified for the Village (1 AUE) and the remaining districts (Rural and General Development).
- Automobile Graveyards and Automobile Junkyards was amended to include 'Automobile Recycling' to align with State Laws, as the uses are often inclusive.
- The Automobile Graveyard, Junkyard, or Recycling specific use was amended to State setback standards, added state setback standards, and referenced current State Laws regarding this use.
- Individual Private Campsites were clarified to require disposal, describe use, and to differentiate between Shoreland and outside of Shoreland durations.
- Article VI inspections were added to Bed & Breakfasts, Boarding, Renting rooms, Hotels, Motels, Inns, Individual Private Campsites, Multi-Family Dwelling Units, Renting Apartments, and Modular Housing & Mobile Homes.
- The new definition of "Litter" was added to garage and yard sales that are left out or exposed when the event is over.
- Reviewing authority for water extraction was corrected to include Code Enforcement in accordance with Article III Section 3.4.
- Proposed amendments clarify the size and scale or earthwork that introduce State permitting and statutory requirements, adds the MEDEP requirement for certified excavation contractors when working in Shoreland, and provides more reasonable standards for our most common activity – residential site preparation.
- Verification of paid sales and property taxes regarding mobile homes brought into the municipality from another local, or moved within the town was added in the amendment (State Laws). Disposal of prior dwelling is articulated when being replaced with a new modular/mobile.
- The distance between principle buildings under multi-family units was clarified to mean the buildings on the same lot, not distance between primary dwellings on abutting lots (50 vs. 40).
- A reference error in Tire Disposal and Storage was corrected, and reasonable protections for private wells and public water sources (*used by the State for similar Automobile Graveyard and Automobile Repair uses*) were added.
- 3-family dwellings (multi-family), a common rehabilitation plan for large farmhouses falls under CEO review (not Planning Board), similar to 2-family and single family dwellings.
- High Intensity Soil Surveys are required for 4-family dwellings or greater, removing 3-family dwellings from the requirement.
- Lifecycle plans for Wireless Communication Facilities, Communication Towers, and Antennas was clarified to be for new towers or the primary existing towers that lease to smaller service provider operators, not smaller service provider lessees. This assures accountability and reduces municipal overhead costs.
- An erroneous reference type was removed from section M.11 in Article V Section 5.26, and flexibility was provided for municipality negotiating the applicants guarantee for the project disposal.

Article VI proposed amendments:

- Local land use (*driveways, demolition, building, relocation*) and building permitting were clarified.
- A State Law passed in 2019 now requires photos before development and photos within 20 days of completion of any development in Shoreland. This was added to the appropriate sections.
- Clarification of fee exempt activities (both land use and building) were provided, square footages increased, duration and height restrictions removed, demolition exemption under 600 SF added, simple pool configurations (above ground, no decking or veneer framing) exempted, and interior improvements adjusted for inflation and duration. This adjusts to current and projected socioeconomic conditions and supports aging in place and upward mobility.
- After-The-Fact permitting costs and expiration of permitting was clarified for both land use and building.
- Certificate of Occupancy requirements were amended to note that 3rd party inspections may be warranted, that inspections evaluate life-threatening conditions, and to acknowledge municipal variance and no-action processes in the review. This adjusts to current and projected socioeconomic conditions and supports aging in place and upward mobility.
- Article VI inspections were clarified to include the various uses (apartments, multi-family, bed & breakfast, boarding, hotels, motels, and inns) where dwelling units are rented.
- The Local Health Officer was omitted from prior revisions of the town of Porter Land Use Ordinance, and is an integral and important part in evaluating health & safety conditions in the community. This position was added to the health & safety inspection component of Section 6.12 regarding all rental dwelling units.
- A State Law passed in 2019 double Land Use Violations for both standard violations, and violations that occur in Shoreland.

Article VII proposed amendments:

- ADA disability and single-Family variance evaluation criteria were added from State Laws M.R.S.A 30-A Section 4353 subsections 4, 4-A, and 4-B, to support current and projected socioeconomic conditions, aging in place, and upward mobility.
- MEDEP involvement regarding variances was clarified to only involve Shoreland, per State Law.
- Newspaper notification was amended to accommodate that the Sacopee Valley has no daily newspaper, and publishes once a week on Wednesdays with a noon Monday submission deadline.
- Abutting municipality general notification of appeals was added when the appeal is within 200 feet of a village property or 500 feet of a rural property.
- Language regarding appeals of subdivision related actions corrected an out of date article reference.

Article VIII proposed amendments:

- Definitions from State statutes were added for "Accessory Dwelling Unit", "Litter", "Reasonable Cost", "Non-commercial Vehicle", and "SemiTrailer".
- The Junkyard definition added a reference to "Litter".
- The "Disability" definition was outdated and not consistent with current State statute and has been updated.
- The Solar Energy Systems (*now Remote energy System*) definition was required by the Maine DEP to be revised in accordance with State regulations.
- The Industrial and Commercial definitions were identical, and recommended to be consolidated and the definition updated for larger farmstands (*increased from 100 SF to 120 SF*).
- The requirement for a recreational vehicle to be registered has been removed, but the RV must comply with Article IV Section 4.2.F (*Refuse Disposal*) and Article V Section 5.12 (*Individual Private Campsite*) regulations.
- Semitrailers were added to the Accessory Use or Structure definition when specifically used as personal benefit storage on a property or remains idle for more than 18 months.